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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Cultural rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, submitted in accordance with Human Rights Council resolution 19/6.

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Report of the Special Rapporteur in the field of cultural rights

Summary

In the present report, the Special Rapporteur in the field of cultural rights considers the impact commercial advertising and marketing practices have on the enjoyment of cultural rights, with a particular focus on freedom of thought, opinion and expression, cultural diversity and ways of life, the rights of children with respect to education and leisure, academic and artistic freedom and the right to participate in cultural life and to enjoy the arts.

Examining new trends in advertising and marketing strategies, the Special Rapporteur is concerned by the increasingly blurred line between commercial advertising and other content, especially in the areas of culture and education. An overall concern relates to the disproportionate presence of commercial advertising and marketing in public spaces, the myriad advertisements and marketing messages people receive daily, the dissemination of such communications using a large variety of media in a systematic and integrated way and the resort to techniques aimed at circumventing individual rational decision-making.

The report concludes that States should protect people from undue levels of commercial advertising and marketing while increasing the space for not-for-profit expressions. Within the framework of article 19 of the International Covenant on Civil and Political Rights and based on the view that commercial messaging may be granted less protection than other forms of speech, the Special Rapporteur recommends that States regulate the area more effectively. Of particular note is the recommendation to ban all commercial advertising and marketing in public and private schools.

I. Introduction

1. Cultural rights are the rights of each person, individually and in community with others, as well as groups of people, to develop and express their humanity, their worldview and the meanings they assign to their existence and development through, inter alia, values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life. They also encompass the right to access and enjoy cultural heritage and resources that allow such identification and development processes to take place.

2. Commercial advertising and marketing practices encompass a diversity of tools and methods to sell and promote services or products. Adapting quickly to new technologies, these practices constantly evolve, using both overt and less overt messaging. Recognizing different forms of advertising and clearly distinguishing between commercial advertising and other content is increasingly difficult. The myriad commercial messages people receive on a daily basis is striking, as is the large variety of media used in a systematic and integrated way.

3. Commercial advertising and marketing practices have an increasing impact on the cultural and symbolic landscapes we inhabit and more widely on our cultural diversity. Always aiming to sell, this commercial messaging has the potential to deeply influence the philosophical beliefs of people and their aspirations, as well as cultural values and practices, from food consumption models to burial rituals, including tastes and beauty canons.

4. Innumerable factors influence people's choices and philosophies. The human rights-based approach supports the free sharing of ideas and world visions. As expressed in United Nations Educational, Scientific and Cultural Organization (UNESCO) instruments, cultural diversity can be protected and promoted only if human rights and fundamental freedom, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed.

5. On this premise, the Special Rapporteur, mandated by the Human Rights Council to identify possible obstacles to the promotion and protection of cultural rights, decided to address the potential impact of commercial advertising and marketing practices on cultural rights. Today, the dominance of specific narratives and world views promoted through commercial advertising and marketing in public spaces, the family and private spheres, combined with an increased deployment of techniques that may influence people at a subconscious level, raises particular concerns in terms of freedom of thought, opinion and, more widely, cultural freedom.

6. To elicit the views of States and other stakeholders, the Special Rapporteur disseminated a questionnaire on the impact of advertising and marketing practices on the enjoyment of cultural rights. Responses were received from 27 States, 16 national human rights institutions and 5 other stakeholders.[1] The Special Rapporteur also convened an experts' meeting on the issue on 28 and 29 October 2013 in New York (see annex). She is grateful to all those who contributed.

[1] Available from www.ohchr.org/EN/Issues/CulturalRights/Pages/impactofadvertisingandmarketing.aspx.

II. Legal framework

A. Relevant human rights provisions

7. Commercial advertising and marketing practices are generally considered to fall to some extent under provisions protecting freedom of expression, such as article 19 of the Universal Declaration of Human Rights and article 19 (2) of the International Covenant on Civil and Political Rights, which states that the right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers. In general comment 34, the Human Rights Committee stressed that the right to freedom of expression "may also include commercial advertising" (CCPR/C/GC/34, para. 11).

8. Hence, the regulation of commercial advertising and marketing practices should follow the principles enunciated in international and regional instruments regarding possible limitations to freedom of expression. In accordance with article 19 (3) of the International Covenant on Civil and Political Rights, restrictions shall only be such as are provided for by law and are necessary for respect of the rights or reputations of others. The Special Rapporteur notes that the rights to freedom of thought, opinion and expression, the right to privacy and family life, the rights of women, children, minorities and indigenous peoples, the rights to food, health, education, leisure and to take part in cultural life, as well as artistic freedom, as set out in regional and international human rights instruments, deserve particular attention in this respect.

9. Article 19 (3) of the International Covenant on Civil and Political Rights also provides that restrictions may be necessary for protecting national security, public order, public health or morals. The Human Rights Committee, in general comment No. 22, stressed that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition(CCPR/C/21/Rev.1/Add.4, para. 8). According to the Committee, it may be permissible in certain circumstances to regulate speech-making in a particular public place (CCPR/C/GC/34, para. 31).

10. Restrictions to freedom of expression should always be the least restrictive and be proportionate to achieving the purported aim. The Special Rapporteur stresses, however, that commercial advertising and marketing may be granted less protection than other forms of speech.

11. The European Court of Human Rights, recognizing that information of a commercial nature cannot be excluded from the scope of article 10 of the European Convention on Human Rights,[2] considered that States have a greater margin of appreciation to impose restrictions on freedom of expression in commercial matters.[3]

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[2] See Markt Intern Verlag GmbH and Klaus Beermann, 1989, para. 26 and Casado Coca v. Spain, 1994.

[3] See "Freedom of expression in Europe: case- law concerning article 10 of the European Convention on Human Rights", Council of Europe Publishing, 2001.

B. Relevant instruments of the United Nations Educational, Scientific and Cultural Organization

12. Article 6 of the UNESCO Universal Declaration on Cultural Diversity states:

> While ensuring the free flow of ideas by word and image care should be exercised so that all cultures can express themselves and make themselves known. Freedom of expression, media pluralism, multilingualism, equal access to art and to scientific and technological knowledge, including in digital form, and the possibility for all cultures to have access to the means of expression and dissemination are the guarantees of cultural diversity.

13. In its preamble, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions recognizes that the diversity of cultural expressions, including traditional cultural expressions, is an important factor that allows individuals and peoples to express and to share with others their ideas and values. According to article 2, cultural diversity can be protected and promoted only if human rights and fundamental freedom, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed.

C. Standards applicable to business enterprises

14. The Guiding Principles on Business and Human Rights offer a general framework regarding States' duty to protect against human rights abuses by business enterprises and the corporate responsibility to respect human rights (see A/HRC/17/31).

15. More detailed instruments relevant to the issue of advertising are also available. In particular, the Children's Rights and Business Principles were released jointly by the United Nations Children's Fund (UNICEF), the United Nations Global Compact and Save the Children in 2013. Principle 6 calls upon corporations to ensure that communications and marketing do not have an adverse impact on children's rights; comply with the standards of business conduct in World Health Assembly instruments regarding marketing and health; and use marketing that raises awareness of and promotes children's rights, positive self-esteem, healthy lifestyles and non-violent values.

16. The Committee on the Rights of the Child, in its general comment 16, stressed the duty of States to ensure that business activities and operations do not have an adverse impact on children's rights, mentioning specifically marketing to children of products with a potential long-term impact on their health. The Committee noted that children may regard marketing and advertisements as truthful and unbiased, and recommended that States adopt appropriate regulations, encourage business enterprises to adhere to codes of conduct and use clear and accurate product labelling and information that allow parents and children to make informed consumer decisions (see CRC/C/GC/16, paras. 19 and 59).

17. Rules have also been adopted for television broadcasters. Directive 2010/13 of the European Union, for example, sets minimum rules and standards aiming to protect minors and human dignity. In particular, audiovisual commercial communications must be readily recognizable and surreptitious audiovisual

commercial messaging and subliminal techniques are prohibited. The directive also stipulates that the transmission of audiovisual media services should ensure respect for cultural and linguistic diversity. The 1989 European Convention on Transfrontier Television contains similar provisions.

D. Standards at the national level

18. Responses to the questionnaire and other data indicate a variety of regimes concerning advertising. Some countries[4] distinguish between commercial and non-commercial speech, with the latter usually being granted a higher level of protection. In many cases, a main obligation is that advertising be clearly identifiable as such; however, reports indicate that tests with the participation of targeted consumers are rarely carried out to ensure this.

19. Some countries[5] have specific laws on advertising indicating, for all media and issues, what is considered to be inappropriate and unlawful advertising. In the absence of such specific laws, provisions are found in legislation related to health, child protection, urban development, environmental protection and countering discrimination, for example. In other countries,[6] however, most details, including specific groups of people with special protection, are included in non-binding codes. Hence, one characteristic of the advertising and marketing sector is the coexistence of regulation and self-regulation, the latter generally inspired by the Consolidated International Chamber of Commerce (ICC) Code of Advertising and Marketing Communication Practice.

20. Areas traditionally regulated by States include the advertising of tobacco, alcohol, firearms and medical products and the protection of specific groups of people, such as women, persons with disabilities, children, minorities and indigenous peoples. In addition, practices such as comparative advertising or misleading and false advertising are often prohibited, and data protection is regulated to some extent.

21. Codes of conduct adopted by advertising agencies and the media provide ethical and behavioural rules. Whether medium-specific or covering all media, codes usually stipulate that advertising should not be misleading, create discrimination or incite violence and must be obviously distinguishable from editorial content. Issues covered include decency, honesty, fair competition, social responsibility, truthfulness, comparisons, denigration, testimonials, safety and health, children, data protection and privacy.

22. The multiplicity of State regulations and industry codes makes understanding and usage extremely difficult. For example, codes do not cover all aspects of advertising and the same advertising campaign can be covered by several codes for different media. This creates uncertainty for companies as well as citizens and consumer interest groups, with the latter unsure of where and how to lodge a

[4] Including Colombia, Italy, Portugal, Qatar, the United States of America, and Venezuela (Bolivarian Republic of).

[5] Azerbaijan, Georgia, Guatemala and Lithuania.

[6] Australia, Chile, Uganda and the United States of America.

complaint. There is a lack of transparency in how the various regulations and self-regulation codes relate to each other and their implementation.[7]

23. The Special Rapporteur is concerned about the confusion that can result concerning the hierarchy of norms, where and how to file complaints and who has the authority to penalize violations. While States' responses indicate that a number of bodies have monitoring or disciplinary powers, whether those bodies can impartially address complaints is unclear. The number of cases addressed seems minimal.

24. Some aspects of advertising and marketing practices, such as "neuromarketing", are rarely covered by specific regulations. Responses to the questionnaire indicate that States have not yet accorded this issue priority status.

25. Market research is self-regulated through the 2007 ICC/European Society for Opinion and Marketing Research International Code on Market and Social Research, article 9 of the Consolidated ICC Code and other codes.[8]

III. Advertising and marketing practices: selected cross-cutting issues

A. Evolution of advertising and marketing practices

26. Today, people receive an ever-increasing number of commercial messages disseminated in a systematic and integrated manner across multiple media, in the public and private spheres, in physical and digital spaces. While varying from one country to another, the level of commercial advertising seems to be on the rise everywhere, deploying increasingly sophisticated strategies, resulting in a progressively blurred line between advertising and other content, especially in the areas of culture and education.

27. New forms and techniques of advertising and marketing have appeared, including:

(a) Digital advertising and marketing using electronic devices, such as computers, tablets, mobile phones, digital billboards and games, to engage with consumers and business partners;

(b) Viral and social media advertising and marketing, rapidly spreading on the Internet through the use of existing social networks or by contracting individuals to enter online communication forums for the specific purpose of promoting a product;

(c) The use of "brand ambassadors", acting, for example, in schools and universities;

(d) Embedded advertising, inserting a product or service within television programmes or series, movies, music, videos, games or school activities;

(e) Native advertising (or branded/sponsored content), in which advertisers sponsor or create editorial-like content;

[7] Jillian Pitt. "A tangled web: marketing to children", Consumer Focus, 2010.

[8] For example, the Market Research Society Code of Conduct.

(f) Online behavioural advertising that tracks consumers' online activities over time (including searches conducted, web pages visited and content viewed) to supply them with targeted advertising;

(g) Many advertisers claim they use neuromarketing, including brain imaging, to elaborate advertising and marketing strategies.

28. The power of advertising to influence individual choices demands a careful assessment of the means advertisers use, taking into consideration in particular the rights of people to privacy and to freedom of thought, opinion and expression, as enshrined in particular in articles 17 to 19 of the International Covenant on Civil and Political Rights, as well as their rights to education and to participate in cultural life, as protected in particular in articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights.

29. In the past, advertising was mainly informative. That changed in the 1920s[9] and today much contemporary advertising focuses on the link between emotional responses and decision-making, benefiting from advances in behavioural sciences and playing on subconscious desires.

30. Surreptitious communications (misleading the public about their advertising nature) and subliminal techniques (enabling messages to be received below the level of conscious awareness) are prohibited in some countries as well as in some international and regional instruments, in particular in Europe. Not all countries have taken that step, however, leading to the circumvention of this basic and important principle by the advertising and marketing strategies described above.

31. The scientific community in particular has expressed concern about neuromarketing, or the use of advances in the neurosciences to develop commercial advertising and marketing strategies. The neurosciences encompass all disciplines that study the nervous system, including biology, chemistry, genetics, computer science and psychology. The aim is to send messages directly to the brain, thereby circumventing rational decision-making. Some States, including France, have limited the use of brain-imaging techniques to scientific, medical and judiciary usage, specifically excluding use in advertising. Others, including Slovakia, consider that existing prohibitions of subliminal messages apply equally to neuromarketing practices (see also the response of Bosnia and Herzegovina).

32. Loud sound effects or moving screens in public spaces are particularly intrusive. This technology exploits the fact that any motion picture at the periphery of our visual field automatically captures our attention, triggering increased levels of alertness and stress that promote the storage of the message. Some advertising screens contain sensors measuring the intensity of the individual's gaze, known as eye tracking, involving people in large-scale advertising experimentation without their prior and informed consent.[10] Many other techniques, such as extreme repetition of the same commercial message on multiple media, also raise concerns regarding the right to freedom of thought and opinion.

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[9] Edward Bernays' book *Propaganda* (Ig Publishing, New York, 1928) is deemed central to the new approach.

[10] Guillaume Dumas, Mehdi Khamassi, Karim Ndiaye, Yves Jouffe, Luc Foubert et Camille Roth, "Procès des Déboulonneurs de pub: et la liberté de (non) réception?", *Le Monde*, 26 June 2012, and L'histoire leur donnera raison: "Procès de six 'déboulonneurs' antipublicitaires", Collectif des déboulonneurs, Paris, 2012.

33. The issue of consent needs to be included in discussions about the impact of advertising and marketing strategies on human rights. For example, some people claim a right not to receive advertising,[11] while others call for provisions to opt out from exposure to advertising and for the development of software to block online advertising.[12]

34. More generally, it is often claimed that consumers relinquish their privacy and consent to becoming targets of advertising, in particular digital advertising, to benefit from lower prices for products and services. The Special Rapporteur notes, however, that in many cases consumers and citizens are not fully aware that their privacy is being breached or to what extent and what this entails in terms of their freedom of thought and opinion.

B. Concentration of media and of advertising groups

35. The right to information and the right to participate in cultural life imply the possibility of gaining access to diverse information, opinions and cultural expressions, as well as a plurality of media sources. Concentration of ownership of media industries is on the increase, however, diminishing the diversity of media content and plurality of programmes in cultural, social and political terms.[13] Both the Human Rights Committee (see CCPR/C/GC/34, para. 40) and the Special Rapporteur on freedom of opinion and expression (see, e.g., A/HRC/26/30, paras. 66-68) have expressed their concerns on this issue.

36. Countries have adopted measures to limit media concentration and protect media pluralism, in particular by promoting diversity of content or establishing a "must carry" principle, requiring, for example, that cable television systems dedicate some of their channels to local broadcasting stations.

37. These issues merit further inquiry and attention, given the increased dependency of print and audiovisual media on advertising revenue coupled with the increased concentration of advertising groups. A few groups have enormous power in negotiating advertising spaces, favouring media that best fit the interests of their client companies, meaning media that do not depict their clients negatively and proactively promote a suitable environment to enhance the consumption of their products and/or services. This can result in wide self-censorship of journalists and media owners, having a significant impact on editorial content and cultural programming.[14]

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[11] Jean Morange, "Affichage publicitaire et liberté d'expression: éléments de réflexion", 2007, and Maurice Pergnier, "Espace publicitaire et espace public: éléments de réflexion", 2006.

[12] Jon Alexander, Tom Crompton and Guy Shrubsole, "Think of me as evil? Opening the ethical debates in advertising", Public Interest Research Centre and WWF-UK, 2011.

[13] Zrinjka Perusko and Helena Popoviç, "Media concentration trends in Central and Eastern Europe" in Karol Jakubowicz, Miklós Sükösd (eds.), *Finding the Right Place on the Map: Central and Eastern European Media Change in a Global Perspective*. See also A/HRC/14/23/Add.2.

[14] Marie Bénilde, *On achète bien les cerveaux: la publicité et les médias*, Paris, Raisons d'agir, 2007, chaps. 3 and 4, and Lawrence Soley, "Private censorship, corporate power", in Robert Atkins and Svetlana Mintcheva (eds.), *Censoring Culture: Contemporary Threats to Free Expression*, 2006.

C. Not-for-profit advertising

38. The distinction between commercial advertising and not-for-profit advertising, such as state and other political, social or religious advertising, is sometimes unclear. Nevertheless, it is important to ask whether, how and to what extent stakeholders other than companies have, and should have, access to advertising space to counterbalance the views disseminated by the corporate sector, which are largely articulated around the promotion of the consumption of (mainly manufactured) products and services. Commercial advertising, not least that of large corporations, is not neutral in terms of the values, world visions and aspirations it promotes.

1. Advertising by political, religious or civil society groups

39. Regulating political communication is common and includes restrictions on advertising (see A/HRC/26/30, paras. 51-54). Many countries prohibit paid "political advertising" on certain media, especially broadcast media, outside of strictly regulated electoral periods. Many broadcasting authorities also refuse to air messages promoting religious or political content that are specifically labelled as such.

40. From a human rights and cultural rights perspective, the aim must be to protect the democratic debate from distortion by powerful financial groups enjoying advantageous access to influential media, to protect the formation of public opinion from undue commercial influence, to promote equality of opportunity among different societal perspectives and viewpoints and to facilitate the editorial independence of radio and television broadcasters.[15] The European Court of Human Rights, for example, found that a ban on paid political advertising in broadcasting was legitimate and proportionate.[16] In an earlier case however, the Court found a breach of article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms when a national broadcaster banned an advertisement by an association for animal protection.[17] The issue clearly needs further discussion.

41. The Special Rapporteur was also informed of restricted or lesser access for not-for-profit advertising on billboards.

2. State or government advertising

42. The Inter-American Commission on Human Rights stressed that government advertising may contribute to diversity when large corporate advertisers, as major providers of media revenue, place advertisements exclusively in sources favourable to their business interests, avoiding outlets that report on financial scandals, environmental damage or labour disputes. In any event, to mitigate state selectivity in advertising, the legal rules regarding government advertising must incorporate the principles of public interest, transparency, accountability, non-discrimination, efficiency and the good use of public funds.[18] The Human Rights Committee, for its part, stated that government advertisements should not have the effect of impeding

[15] See the arguments of the Federal Tribunal of Switzerland in European Court of Human Rights, VgT v. Switzerland (No. 2), 2009, Grand Chamber, para. 14. See also the response of Switzerland on this issue.

[16] Animal Defenders International v. the United Kingdom, 2013.

[17] VgT v. Switzerland, 2009.

[18] Inter-American Commission on Human Rights, "Principles on the regulation of government advertising and freedom of expression", 2011, para. 39.

freedom of expression and that private media must not be put at a disadvantage compared to public media in such matters as access to means of dissemination and distribution of and access to news (see CCPR/C/GC/34, para. 41).

43. Some governments use advertising methods and agencies to convey public health messages and promote human rights. Some also use neuroscience and behavioural research in designing public policies to achieve positive change through prevention rather than prescription and sanctions.[19] These developments, called social marketing, are becoming a powerful worldwide trend and are promising in terms of their ability to effectively counter behaviours detrimental to, for example, public health, the environment or human rights, using the same means as companies seeking to sell products and services. Such techniques should be used with caution, however, taking into consideration individual freedom and democratic principles.

IV. Impact of commercial advertising and marketing practices on the enjoyment of cultural rights

A. Advertising, ways of life and cultural diversity

1. Impact on cultural diversity

44. As early as 1985, a UNESCO report indicated that by restructuring consumption habits, the advertising industry imposed exogenous, partly alien ways of life on people of developing countries.[20] In 2009, another UNESCO report affirmed that there could be no doubt that the development of transnational markets, linked to the rise of consumerism promoted by skilful advertising, was having a significant impact on local cultures, which were finding it difficult to compete in an increasingly global marketplace.[21]

45. Advertising and marketing strategies have become more sophisticated and brands have developed their own identities. Using a combination of meanings, symbols and values and having unmatched outreach worldwide, they provide codified messages to people and have succeeded in becoming some of the reference points for people's perceptions about themselves, others and the world in general.

46. Advertising campaigns usually rely on a few themes: happiness, youth, success, status, luxury, fashion and beauty, and mostly suggest that solutions to human problems are to be found in individual consumption and status symbols. Theories of consumer culture and cultivation reveal how the media and advertising can "cultivate" values such as materialism.[22] They stress that individual consumers do not make rational choices in the context of "free" markets. Instead, they operate within a sociocultural, economic and political framework that shapes and limits how

[19] Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth and Happiness*, Yale University Press, 2008.

[20] UNESCO, *Mass Communications and the Advertising Industry*, Paris, 1985.

[21] Ibid., *Investing in Cultural Diversity and Intercultural Dialogue*, Paris, 2009.

[22] Agnes Nairn, Christine Griffin and Patricia Gaya Wicks (2008), "Children's use of brand symbolism: a consumer culture theory approach". *European Journal of Marketing*, vol. 42, No. 5/6.

they think, feel and act in the contemporary marketplace.[23] Advertising and marketing practices increasingly help to shape this framework.

47. The misrepresentation, underrepresentation and stereotyping in advertising of certain social classes and groups is also of concern. Furthermore, global advertising campaigns promoting one single advertising message for all countries, according to observers, have an even more detrimental impact on cultural diversity, including linguistic diversity.[24]

2. Promotion of detrimental behaviours and attitudes

48. Many products, behaviours and attitudes promoted by commercial advertising are harmful to people's health and social relationships, as well as to the environment. Examples most frequently mentioned include tobacco smoking, which advertising associates with the positive values of freedom and independence; the stereotyping of women; and the promotion of food with a high content of fat, sugar or salt. These are not the only examples, and some argue that, overall, it is the omnipresent and aggressive promotion of lifestyles based on intense consumption that is detrimental to human societies and the environment.

49. Despite some progress, advertising still commonly portrays women as housewives, mothers or sex symbols, with sometimes detrimental impacts on the health of young girls, such as anorexia.[25] Some States have introduced regulations on stereotypes and body image in advertising, for example requiring disclosing when images have been digitally modified (see the responses of Argentina, Denmark and Mexico).

50. Food advertising and promotion have contributed to shifting dietary patterns towards those closely linked with non-communicable diseases. By promoting mainly manufactured products with a high content of fat, sugar or salt, food and beverage companies contribute to altering previous eating and cooking practices that often were healthier and more ecologically sound. Both the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/26/31, paras. 22-25) and the Special Rapporteur on the right to food recently expressed their concerns on these matters.[26] Some measures have been adopted in particular within the framework of the World Health Organization (WHO).[27] For example, some States have prohibited companies from advertising junk food to children below a certain age, while others have prohibited the inclusion of toys with children's food.

51. Safeguards need to be made more effective. For example, health messages at the bottom of food advertisements do not attract sufficient attention, as shown by tracking the eyes of people watching television. These would be more effective if their content, form and layout changed during the advertising, if they appeared on

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[23] Eric J. Arnould and Craig J. Thompson, "Consumer culture theory: twenty years of research", *Journal of Consumer Research*, vol. 31, No. 4, 2005.

[24] Noreen Janus, "Advertising and global culture", *Cultural Survival*, 1983.

[25] Council of Europe resolution 1557 (2007).

[26] See WHO, "Global status report on non-communicable diseases", 2010, chap. 2.

[27] WHO, "Set of recommendations on the marketing of foods and non-alcoholic beverages to children", 2010. See also WHO, "International Code of Marketing of Breast-milk Substitutes", 1981.

the screen on their own and were read out by different voices. More generally, informing people is not enough to bring about behavioural change.

52. In general, online regulations have not kept pace with offline regulations, enabling companies to effectively dodge the law by relocating their advertising to digital spaces.

53. Regulations have lagged behind the ingenuity of advertisers. For example, the banning of traditional tobacco advertising is insufficient. A study measuring brain reactions to a range of stimulants (cigarette packets, advertising posters, promotional items and brand exposure through sponsorship) show that sponsorship images, such as using a colour code for items even without explicitly mentioning the brand, stimulate areas of the brain associated with the desire to smoke. These results invite considerations of ways to regulate all forms of indirect advertising and sponsorship.

3. Use of cultural expressions, particularly those of indigenous peoples, for commercial purposes

54. The constant search for novelty and culturally resonant meanings in advertising has led to the appropriation of signs and images wherever they are found, including in indigenous cultures, with usage frequently distorting the original symbology. Indigenous groups have resisted companies seeking to incorporate indigenous imagery into their products, services, advertising or marketing,[28] with some success.

55. National laws should be in conformity with international standards, including those contained in the United Nations Declaration on the Rights of Indigenous Peoples, in particular article 31, in which the right of indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions is recognized. Good practices include specific regulation to protect indigenous communities (see the response of Colombia).

B. Advertising, children and education

1. Children

56. The Convention on the Rights of the Child protects the rights of children to freedom of expression (article 13), freedom of thought, conscience and religion (article 14), play (article 31), education (article 29) and health, including adequate nutrition (articles 24 and 27). Pursuant to article 17, States recognize the important function mass media perform and are committed to ensuring that children have access to information and material from a diversity of national and international sources, especially those aimed at promoting their social, spiritual and moral well-being and physical and mental health. States also are committed to encouraging the development of appropriate guidelines for the protection of children from information and materials injurious to their well-being, bearing in mind the provisions of articles 13 and 18. Of note, article 18 (1) provides that States shall ensure the recognition of the principle that parents have the primary responsibility

[28] Sarah La Voi, "Cultural heritage tug of war: balancing preservation interests and commercial rights", *DePaul Law Review*, vol. 53, No. 928, 2003.

for the upbringing and development of their children. In accordance with article 3 (1), in all actions concerning children, the best interests of the child shall be a primary consideration.

57. In its general comment 17 on the right to leisure (CRC/C/GC/17), the Committee on the Rights of the Child recognized that the commercialization of children's play environment influences how children engage in recreation, cultural and artistic activities. The Committee also expressed concern that:

> many children and their families are exposed to increasing levels of unregulated commercialization and marketing by toy and game manufacturers. Parents are pressured to purchase a growing number of products which may be harmful to their children's development or are antithetical to creative play .... Global marketing can also serve to weaken children's participation in the traditional cultural and artistic life of their community.[29]

Many studies commissioned by governments and civil society groups support such assessments and underline that commercial advertising heightens children's insecurities, accentuates inequalities and distorts their gender socializations.[30]

58. Most countries grant children special protection in relation to commercial advertising. Some prohibit television advertising at certain hours or in connection with children's programmes. One principal element in legislation and the ICC code is that marketing directed at children should be clearly distinguishable from other content. A few countries prohibit all forms of advertising to children, regardless of the medium or means used.[31]

59. The definition of a child for the purposes of commercial advertising in state legislation and self-regulatory codes varies from persons under the age of 12 to those under 18. Sometimes the age is not specified. The 12 years of age criterion is based on academic assessments indicating that by the age of 12 children have developed their behaviour as consumers, effectively recognize advertising and can critically assess advertisements. Academic and civil society organizations have asked for a ban of all advertisement to primary-school children.[32]

60. Whether children of a certain age have developed adequate "cognitive defences" to implicitly processed commercial messages is contested, however.[33]

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[29] See also Susan Linn, "Commercialism in Children's Lives", in *State of the World 2010: Transforming Cultures from Consumerism to Sustainability*, Worldwatch Institute, 2010.

[30] National Education Policy Center, "Effectively embedded: schools and the machinery of modern marketing", thirteenth annual report on schoolhouse commercializing trends: 2009-2010, University of Colorado at Boulder; United Kingdom Department for Chilodren, Schools and Families and Department for Culture, Media and Sport, "The impact of the commercial world on children's wellbeing: report of an independent assessment", 2009; M. Barbovschi, L. Green and S. Vandoninck (eds.) "Innovative approaches for investigating how children understand risk in new media: dealing with methodological and ethical challenges", EU Kids Online, London School of Economics and Political Science, 2013.

[31] For example in Brazil, and in Canada, Denmark and Norway for children under 12.

[32] Ipsos MORI, in partnership with Agnes Nairn, "Children's well-being in UK, Sweden and Spain: the role of inequality and materialism", 2011; "Leave our kids alone campaign", www.leaveourkidsalone.org.

[33] Agnes Nairn and Cordelia Fine (2008), "Who's messing with my mind? The implications of dual-process models for the ethics of advertising to children", *International Journal of Advertising*, vol. 27, No. 3, 2008.

Given the emotive nature of most television advertising, the manner in which most digital advertising is processed and the development of new forms of advertising, such as embedded, viral and native advertising, assumptions about cognitive defence need thorough investigation. To the extent that any cognitive defence exists, advertising seeks to circumvent it.

61. Special attention is required in sectors escaping regulations on advertising to children, such as in the recruitment of children as brand ambassadors on social media[34] and advertising on mobile devices and in video games. Children are particularly vulnerable to such practices.[35]

62. In this context, initiatives to increase media literacy are praiseworthy. Their effectiveness, however, is largely untested.

2. Advertising in schools

63. Most international human rights standards and national laws on education place a legal obligation on children to attend school. Schools therefore constitute a distinct cultural space, deserving special protection from commercial influence.

64. The growing presence of advertising in schools is documented.[36] Numerous examples exist of company logos appearing on school materials, including textbooks and educational material, as well as on school premises; company logos as the central focus of sponsored lessons; television in schools providing "educational content" with advertising; shows by characters representing brands; vending machines or coffee bars occupying school space to sell and promote particular brands and/or products; contests organized by banks; sponsorship of school buses, sports fields or school names; branded road safety material; incentive programmes with supermarkets offering vouchers for school laptops or cameras; school fund-raising strategies encouraging families to enter into commercial relations with companies that donate to schools; exclusive agreements granting a company exclusive rights to provide a service and/or product; the recruitment of schoolchildren to serve as brand ambassadors and so on. The Special Rapporteur considers school premises as encompassing not only the school itself, including cafeterias, libraries, playgrounds and sports facilities, but also their immediate vicinity, as well as school buses.

65. Schoolchildren offer a captive and credulous audience. Companies see school-based marketing and advertising as perfectly suited to "branding" children at an early age. Marketing and advertising programmes are normalized and given legitimacy when embedded in the school context; the strategies deployed lead children to interact and engage with particular brands during school time.[30] Furthermore, the sponsoring of school material and educational content reduces the freedom educational institutions have for developing the most appropriate and highest-quality curriculum for their students.

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[34] Denmark has prohibited this practice.

[35] Agnes Nairn and Haiming Hang, "Advergames: it's not child's play", Family and Parenting Institute, London, 2012; www.agnesnairn.co.uk/policy_reports/advergames-its-not-childs-play.pdf.

[36] For example in Brazil, by the Alana Institute: http://criancaeconsumo.org.br/, or in the United States of America by the Commercialism in Education Research Unit: http://nepc.colorado.edu/ceru-home.

66. Advertising in schools remains unregulated in many countries (see the responses of Chile, Guatemala, Paraguay, Qatar, Togo, Uganda, and the Defensor del Pueblo, Plurinational State of Bolivia). Some States (Greece, France, Serbia and Slovakia) prohibit or limit advertising in public schools on the basis of the principles of neutrality, purpose of the institution and child protection (see also the response of the National Human Rights Committee of Qatar). Others, including Algeria, prohibit all advertising for commercial purposes, but the dividing line between commercial and non-commercial messaging remains unclear. Some States, including El Salvador, have intervened to stop situations that have gone beyond what seems reasonable; in others, such as Finland, parents have the right to decide the kind of marketing permissible in schools, with a strict prohibition against disseminating pupils' contacts for marketing purposes. In other situations, sponsoring is allowed, but the material cannot contain product marketing. WHO, for its part, recommends that children not be exposed to any form of marketing of foods high in saturated fats, trans-fatty acids, free sugars or salt, in particular when they are in schools and on playgrounds.[37]

67. Even when restrictions on advertising are in place, difficulties or loopholes in implementation arise from general legal provisions that require localized implementation by municipalities or school boards that are sometimes unaware of the regulations. Difficulties in interpretation of the law may also emerge (see the response of Slovakia).

68. For States, local authorities and parents, opposing advertising and marketing in schools can be difficult. In some contexts, this may impede the ability to secure sufficient funds to construct and/or maintain school infrastructure, provide pupils with books, lunches or teachers, organize outdoors activities and games and so on. Economic recession and cuts in budgets increase the pressure on authorities, who are then more likely to resort to negotiating agreements with companies. There are also numerous cases, however, of schools authorizing advertising and marketing practices on their premises without deriving significant or, indeed, any, financial gain as a result.

69. The Special Rapporteur stresses that private sponsorship can indeed help in securing funds needed for the effective functioning of schools. This should not, however, result in advertising and marketing materials or activities entering school premises or being targeted at children. The Special Rapporteur is of the view that companies may still advertise the fact that they sponsor schools, but should do so outside schools. The only exception to this may be when specific materials, such as computers or musical instruments bearing logos or brands of the companies producing them, are donated to schools (known as manufacturers' or distributors' primary consumer product package labels).

70. Taking into consideration article 13 of the International Covenant on Economic, Social and Cultural Rights, which refers to the minimum educational standards as may be laid down or approved by the State, the Special Rapporteur considers that the prohibition of advertising should be applied in both public and private schools.

[37] WHO, "Set of recommendations on the marketing of foods and non-alcoholic beverages to children", 2010.

3. Advertising in universities

71. Commercial advertising and marketing in universities is similar to such activities in schools but raise different issues, as young adults are deemed to have sufficient levels of awareness and critical thinking. Most country responses indicated that, as independent bodies, universities may regulate advertising and marketing according to internal codes (see the responses of Bolivia (Plurinational State of) Brazil, Finland, France, Guatemala, Honduras, Nicaragua, Portugal, Serbia, Togo and Uganda). Universities very rarely seem to prohibit some forms of advertising.

72. Universities are spaces where students should learn to develop a spirit of enquiry and free thinking. Hence, authorities should ensure that advertising and marketing on university campuses remain clearly distinguishable and within reasonable limits, and that the best interests of students and the academic community remain paramount.

73. Literature indicates that university-business agreements may include conditionality, such as "non-disparagement clauses", prohibiting members of the university community from criticizing the company involved.[38] Such restrictions on the right to the freedom of expression of students and academics should not be tolerated.

74. The promotion of specific products and services through the sponsorship of academic research is a growing trend. It can take the form of sponsorship of departments and professorships and commissioning of academic studies that are tantamount to market research. The Special Rapporteur considers that some criteria need to be established to prevent conflicts of interest, and to guarantee academic freedom and the rights of students to information and an education.

75. Of specific concern is the sponsoring of university textbooks and attempts to influence their content, for example in medical sciences. Such sponsorship should be made fully transparent so that students may consider their textbooks with a critical eye and seek access to other sources of information.

C. Advertising and public space

76. Public spaces are spheres for deliberation, cultural exchange, social cohesiveness and diversity. The growing commercialization and privatization of public spaces pose significant challenges to the realization of the right to participate in cultural life and to the protection of public spaces reflecting cultural diversity. People engaging in creative activities encounter manifold difficulties in using public space.

1. Outdoor advertising

77. National laws regarding the conservation of historic sites or monuments or the protection of the environment or landscape, for example, provide guidelines regarding the size and location of advertisements, their aesthetics and obligations to be followed (see the responses of France, Guatemala and Rwanda). Such laws can also regulate not-for-profit advertisement and murals on private property. Although

[38] Naomi Klein, *No Logo: Taking Aim at the Brand Bullies*, Knopf Canada, 1999.

some laws provide for fines in case of illegal advertisements and specify procedures for their removal (see the response of the National Commission of Uganda), civil society groups report that these are often not effective (see the responses of Résistance à l'agression publicitaire and Paysages de France).

78. Responses to the questionnaire show that in most countries, outdoor advertising falls under the jurisdiction of local governments or municipal departments. Some municipalities regulate the permissible size, number and zones for outdoor advertisement and determine areas for public interest information and political advertising. Agreements may be concluded with companies to provide bus shelters and public toilets, for example, in exchange for the right to place advertisements on them (see the response of Paysages de France).

79. The uncontrolled expansion of advertisements has prompted some national and local authorities to take action (see the responses of Colombia and El Salvador). In 2006, for example, the adoption by the city of Sao Paulo, Brazil, of a "clean city" law resulted in the removal of 15,000 advertisements before the city adopted new regulations setting out clear rules.

80. In various countries, civil society organizations denounce excessive advertising and illegal billboards. Written requests asking authorities to act against the latter have been largely ignored, allowing billboards to remain in place for years before tribunals reach a decision (see the response of Paysages de France). Instead, in some cases, those denouncing unlawful billboards have found themselves facing defamation lawsuits by advertising companies.[39] Some groups also engage in direct actions to remove unlawful billboards or simply to protest against the proliferation of billboards. Alternatively, some groups have transformed, mocked and distorted the advertising messages disseminated on billboards, in direct response to their messages and to contest the values and aspirations they promote.

81. The imbalance in power in these situations is of concern. The few companies holding the worldwide market for outdoor advertising, including in bus or train stations and airports, can end up deciding what is displayed in the public space.[40]

82. The question is one of proportion: the number of outdoor advertisements, their size, locations and the technologies used, such as digital billboards and screens, render advertisements omnipresent and inescapable. Billboards obstruct people's engagement with their environment, including parks, built heritage or the landscape, and, by exhorting people to become mere consumers, adversely affect their sense of citizenship. The Special Rapporteur notes with concern the numerous cases of people having the windows of their houses covered by large billboards, despite their opposition, and of trees cut down to ensure greater visibility of billboards.

83. Billboards and other outdoor advertising devices affect far more than the private property on which they are installed; indeed, the commercial value of billboards is determined by the number of viewers passing by. Observers argue that, in reality, companies purchase public space rather than merely hire private property (e.g., a wall on a private building).

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[39] See the case of Defi France v. Paysages de France, Criminal Tribunal of Grenoble, 2013; Court of Appeal of Grenoble, 2004; and Cour de Cassation, 2005.

[40] For instance, CBS Outdoor and JC Decaux refused to display an image chosen by the Imperial War Museum in Manchester , 2013; see http://www.bbc.com/news/entertainment-arts-24565194.

84. Another growing trend is to sell companies the right to select names for prominent buildings, streets and sports halls. The impact this has on the symbolic landscape of cities and people's perceptions should be considered, and public discussion and the participation of local residents in decision-making ensured. Some States, including El Salvador, have adopted laws to impede this trend.

2. Artistic creation and the public space

85. Corporations, artists claim, try to co-opt public space used by graffiti artists, for example, for commercial messaging.[41] Indeed, advertising companies have demanded that murals be regulated by the same codes applicable to advertisement billboards.

86. While acknowledging that States have different approaches to graffiti, the Special Rapporteur is concerned by the sharp disparity between the paucity of action and enabling mechanisms for removing illegal billboards compared with the far greater resources devoted to removing illegal graffiti, with sanctions in the form of fines and even jail sentences.

D. Art and cultural programming, artistic expression and creativity

1. Advertising on television

87. Television remains a key medium for advertisement, and advertisements are the principal source of income for television channels. To attract advertisers, channels need to attract the target audience of companies. Studies reveal the impact of advertising on programme content, for instance channels not offering content to groups with low purchasing power and the managing director of a television channel averring that the aim was to sell "available parts of human brains" to advertisers.[42] It is further argued that the increased representation of violence in programmes reinforces the efficiency of advertising: individuals subjected to emotional stress retain messages delivered to them better. In addition, a number of biochemical reactions make people more inclined to consume food with a high fat and sugar content.[43]

88. Embedded advertising on television is also of concern.[44] Article 13 (2) of the WHO Framework Convention on Tobacco Control requires parties to implement a comprehensive ban on tobacco advertising, promotion and sponsorship or to apply restrictions that are as comprehensive as possible. The guidelines for implementing this provision recognize that the depiction of tobacco in films is a form of promotion. Prohibitive or restrictive measures need not interfere with legitimate types of expression, however, such as journalistic, artistic or academic expression or legitimate social or political commentary. Nonetheless, States should take steps to prevent the use of journalistic, artistic or academic expression or social or political commentary for the promotion of tobacco use or tobacco products.

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[41] Gwenaëlle Gobé, *King of the Line* (documentary film).

[42] Les associés d'EIM, *Les dirigeants face au changement: baromètre 2004*, Les Éditions du huitième jour, 2004.

[43] Michel Desmurget, *TV lobotomie: La vérité scientifique sur les effets de la télévision*, Max Milo, 2011.

[44] WHO, *Smoke-free Movies: From Evidence to Action*, 2011.

89. Of note, European Union directive 2010/13 considers as prohibited surreptitious communication:

> the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

It further states that sponsoring programmes or audiovisual media services shall not affect the editorial independence of the media service provider; they shall not directly encourage the purchase or rental of goods; and viewers shall be informed of the sponsorship agreement. Product placement is restricted. The European Convention on Transfrontier Television of 1989 also requires the regulation of advertising.

2. Commercial sponsorship of the arts

90. As noted in the Special Rapporteur's report on artistic freedom, cuts in public spending have enhanced the importance of private sponsorship of the arts (A/HRC/23/34, para. 70). While tax incentives may be a welcome means of encouraging private sponsorship of the arts and stimulating cultural production, the balance should always be in favour of artistic freedom and creativity. It is important to safeguard against sponsors reorienting activities to be more attractive to the market, and States should ensure that corporate sponsorship does not result in the arts and artists becoming mere advertisers of corporate interests. The desire of corporations to protect a specific logo or brand or to silence criticism of their product may also result in art restrictions. In most countries, private sponsorship of the arts appears to be an unregulated area. The concern is the long-term impact on art and cultural programming and the freedom of expression of artists, including towards corporations.

91. A recent global trend in art museums is "brand exhibitions", which are not only sponsored by, but devoted to, luxury brands, including the representation of their logos or values and the sale of their products in museum stores.[45] This raises a number of questions and concerns regarding the distinction to be made between support and direct advertising, between advertising and other content and in terms of the balance needed between private benefit and public interest, including the right of people to enjoy the arts in spaces sheltered from undue commercial influence.[46]

92. Art institutions use internal measures to review the benefits and risks of collaboration with for-profit companies. Important issues that need to be addressed include the potential impact of collaboration on the good name and/or reputation of the institution; whether the corporation's values, products and services are consistent with those of the institution and its community; and respect for the institution's mission and programme.[47]

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[45] See, e.g., *Louvre pour tous*, "Publi-expositions, des expos publicitaires dans les musées", 17 November 2013.

[46] *Le Monde*, "Quand les marques s'exposent au musée", 8 October 2012.

[47] Association of Art Museum Directors, "Managing the relationship between art museums and corporate sponsors", 2007.

93. To guard against the potential negative consequences of corporate sponsorship, organizations have developed toolkits to assist artists.[48] Some countries have conducted surveys on cultural events, organizations and activities to identify and analyse trends in public and private funding. Such initiatives should be encouraged.

3. Sponsorship and conservation of cultural heritage

94. The presence of a private sponsor of cultural heritage made obvious through oversized logos or advertisements may provoke strong reactions among people who feel that their rights to access cultural heritage or to participate in cultural life have been curtailed. Concerns have also been expressed about the granting of exclusive rights to a sponsor for projects to renovate historical sites.

95. Many countries have laws restricting advertising on and around historical sites or monuments. Recently, however, temporary advertising on scaffolding during renovation has become a practice in several countries. A good practice is using the image of the building in its original or post-renovation state with the name of the sponsor appearing in small print rather than displays directly promoting the sponsor.

V. Conclusions and recommendations

96. **Throughout the world, cultural exchanges stimulate the modification of cultural practices, evolving philosophies and worldviews. The concern is not that change occurs, but rather the disproportionate and omnipresent nature of commercial advertising and marketing. Often backed by strong financial means and privileged access to mass media, and increasingly resorting to techniques that may influence people at a subconscious level, commercial messaging contributes to shifting practices towards consumption and uniformity. This has a significantly impact on creativity and affects cultural and symbolic landscapes — whether physical or digital — and people's cultural values and philosophical beliefs. It is time to acknowledge this phenomenon and to investigate thoroughly the impact on cultural diversity and the right of people to choose their own ways of life.**

97. **States wishing to protect cultural diversity need to protect their societies from undue levels of commercial advertising and marketing while increasing the space for not-for-profit expressions.**

98. **States have a particular responsibility in ensuring that public space remains a sphere for deliberation, cultural exchange, social cohesiveness and diversity. The protection of public space is not the only important issue, however, as commercial advertising and marketing practices have intruded into private spheres and the family.**

99. **While commercial advertising and marketing practices may be protected under the right to freedom of expression, limitation clauses as provided for in article 19 of the International Covenant on Civil and Political Rights apply; in particular, restrictions necessary to ensure respect for the rights of others may be provided by law. The Special Rapporteur notes that the right to freedom of thought, opinion and expression, the right to privacy and family life, the rights**

[48] Arts Sponsorship Toolkit, Business and Arts South Africa, www.basa.co.za/?page_id=52.

of women, children, minorities and indigenous peoples, the right to food, health, education and leisure, the right to take part in cultural life and the right to artistic freedom, as set out in the various regional and international human rights instruments, deserve particular attention in this respect. As underlined by the Human Rights Committee, it may also be permissible in certain circumstances to regulate speech-making in a particular public place.

100. The freedom of thought and opinion, which lies at the heart of human rights, including cultural rights, deserves a particular mention. Although people have their own agency and critical resistance, and while trying to convince someone is not an encroachment on the right to freedom of thought and opinion, and in fact supports democratic debate, the Special Rapporteur is of the view that the increasingly blurred line between commercial advertising and other content, the myriad advertisements and marketing communications people receive daily, the dissemination of such communications through a large variety of media used in a systematic and integrated way and the resort to neuromarketing aimed at circumventing individual rational decision-making raise serious concern.

101. Many States have adopted laws, but commercial advertising and marketing remains mostly self-regulated. This situation is unsatisfactory, leading to poor overall implementation, gaps, inconsistencies and legal uncertainty for both the industry and the public, as well as a paucity of clear, transparent and efficient complaint mechanisms.

102. The Special Rapporteur recommends a number of steps to be adopted within the framework of article 19 of the International Covenant on Civil and Political Rights relating to the right to freedom of expression. Such action is recommended in relation to commercial advertising and marketing only, which, aiming to sell particular services and/or products rather than to express a particular viewpoint or participate in debates of general interest, may be granted a lesser level of protection.

103. The Special Rapporteur recommends in particular that:

(a) States adopt legislation on commercial advertising and marketing that regroups dispersed codes of ethics and clearly refers to the obligation to respect and protect human rights, in particular the right to freedom of thought, opinion and expression, the right to privacy and family life, the rights of women, children, minorities and indigenous peoples, the right to health, food, education and leisure, the right to take part in cultural life and the right to artistic freedom;

(b) Local authorities, in particular municipalities, adopt regulations in their spheres of competency regarding commercial advertising, with reference to human rights standards as mentioned in subparagraph (a) above;

(c) Companies adopt self-regulatory codes, in compliance with human rights standards, establishing a global responsible marketing and advertising policy and prohibiting harmful and unethical advertising, in particular to children;

(d) States, local authorities and bodies responsible for overseeing the implementation of self-regulated codes provide clear, simple and easily

accessible information to their constituents about the legal framework in place, the authorities responsible and the remedies available, with a good initiative being to issue practical guidelines for citizens and consumers of the various rules and codes in place and possible remedies.

104. The Special Rapporteur recommends that legislation, regulations and policies adopted by States and local authorities, where relevant:

(a) Be adopted or amended following consultations with civil society organizations, and not only the corporate sector;

(b) Be geared towards reducing the level of commercial advertising and marketing that people receive daily, indicating in particular what should be considered as unreasonable in terms of, for example, the number, intensity and frequency of advertisements, sound volume, luminosity, location and size, and be aimed at the proactive implementation of environmental and other legislation through the prompt removal of illegal advertising;

(c) Be based on the fundamental principle that commercial advertising and marketing should always be clearly identifiable and distinguishable from other content on all media, in all places and on all supports, and that this be tested with the target audience and be applied to all new advertising strategies, including the use of brand ambassadors and native advertising; ensure that messages are labelled as advertising in an internationally recognized format; and establish a compulsory, clear and uniform system of labelling for all in-game advertising and "advergames";

(d) Prohibit all resort to subliminal and surreptitious methods, and restrict advertising that is processed implicitly, taking into consideration various factors such as the age and capacity of the persons targeted as well as the amount of advertisements they receive, and provide that the example of countries that have restricted brain-imaging techniques to scientific, medical and judiciary usage be followed;

(e) Ban all commercial advertising and marketing in public and private schools and ensure that curricula are independent from commercial interests;

(f) Further identify spaces that should be completely or especially protected from commercial advertising, such as kindergartens, universities, nurseries, hospitals, cemeteries, parks, sports facilities and playgrounds, as well as cultural heritage sites and such cultural institutions as museums, with the banning or drastic limitation of outdoor advertising as an option, as exemplified by several cities in the world;

(g) Prohibit all forms of advertising to children under 12 years of age, regardless of the medium, support or means used, with the possible extension of such prohibition to children under 16 years of age, and ban the practice of child brand ambassadors;

(h) Contain unequivocal definitions, in particular of the various advertising and marketing practices being regulated, measurable targets and strong monitoring mechanisms with meaningful sanctions.

105. **The Special Rapporteur recommends that States:**

(a) **Develop and enhance media and health literacy in schools, while assessing and monitoring the effectiveness of such programmes;**

(b) **Reinforce existing regulations on data privacy in conformity with the International Covenant on Civil and Political Rights, including data collected on the Internet.**

106. **The Special Rapporteur encourages States and relevant stakeholders to organize and participate in public consultations in order:**

(a) **To develop policies and guidelines aimed at reducing the negative impact that the increased concentration of advertising companies and the increased dependency of written and audiovisual media on advertising revenue may have on the free press, editorial content and cultural programming;**

(b) **To define what public space is and how it should be used in a participatory manner;**

(c) **To address the multifaceted issues of sponsorship, including:**

(i) **Sponsorship of primary and secondary schools, universities and academic research, in particular with regard to programme integrity and academic freedom;**

(ii) **Sponsorship of artistic events and exhibits, especially with regard to artistic freedom and the right of people to enjoy the arts in spaces sheltered from commercial influence;**

(iii) **Sponsorship of cultural heritage conservation and renovation, with a view to encouraging the practice of prioritizing educational content (over commercial content) on scaffoldings, sites, and so on;**

(d) **To ensure that spaces for not-for-profit messaging, including in broadcast media and outdoor advertising, are made available within the framework of the right to freedom of expression, the non-discrimination principle and the need to protect the democratic debate from distortion by powerful financial groups or groups enjoying strong financial support;**

(e) **To take positive measures to ensure that a diversity of messages appears in spaces devoted to advertising and to promote equality of opportunity among different societal perspectives and viewpoints.**

Annex

Participants in experts' meeting held in New York, 28 and 29 October 2013

Name	*Affiliation*
Laurence Cuny	Human rights lawyer, consultant, France
Katherine Deland	World Health Organization
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Cecilia von Feilitzen	Former Scientific Coordinator, International Clearinghouse on Children, Youth and Media, University of Gothenburg, Professor Emeritus at Södertörn University, Media and Communication Studies, Sweden
Joseph Fogarty	President, Campaign for Commercial Free Education, Ireland
Gwanaelle Gobe	Filmmaker and artist, United States
Josh Golin	Campaign for Commercial Free Childhood, United States
Hans Haacke	Artist, Germany, United States
Ekaterine Souza Karageorgiadis	Lawyer, Alana Institute, Children and Consumerism Project, Brazil
Mehdi Khamassi	Permanent Researcher in Cognitive Sciences, Institute of Intelligent Systems and Robotics, Centre national de la recherche scientifique, Pierre et Marie Curie University, France
Steve Lambert	Artist, United States
Svetlana Mintcheva	Director of Programmes, National Coalition against Censorship, Founder of NCAC Arts Advocacy Project, United States
Anastasia Mityushina	Curator, Contemporary Culture Center Garage, Russian Federation

Name	*Affiliation*
Alex Molnar	National Education Policy Center, School of Education, University of Colorado, United States
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Olivier Oullier	Professor, Cognitive Psychology Lab, Behaviour, Brain and Cognition Institute, Aix-Marseille University and Centre national de la recherche scientifique, France
Armando Peruga	World Health Organization, Tobacco-Free Initiative Programme Manager
Zrinjka Perusko	Chair, Centre for Media and Communication Research, Faculty of Political Science, University of Zagreb, Croatia
Laura Raicovich	Director of Global Initiatives, Creative Time, United States
Marcin Rutkiewicz	Author and curator, Fundacja Sztuki Zewnêtrznej, Poland
David Ross	Chair, Master of Fine Arts Art Practice, School of Visual Arts, United States
Puvan Selvanathan	Member of the United Nations Working group on business and human rights
Mike Van Graan	Executive Director of the African Arts Institute, ARTerial, South Africa

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Sixty-ninth session
Item 69 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights

Note by the Secretary-General

The General Assembly, in its resolution 67/163 on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, requested the Secretary-General to report on the implementation of that resolution.

The report of the Secretary-General on national institutions for the promotion and protection of human rights (A/HRC/27/39), which was submitted to the Human Rights Council at its twenty-seventh session and covers the period from April 2013 to August 2014, contains information on the role of the Ombudsman, mediator and other national human rights institutions. The Secretary-General has, therefore, the honour to refer the General Assembly to that report.

* A/69/150.

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Sixty-ninth session
Item 69 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Moratorium on the use of the death penalty

Report of the Secretary-General

Summary

The present report is submitted to the General Assembly pursuant to its resolution 67/176. It discusses trends towards the abolition of the death penalty and the establishment of moratoriums on executions. The report also reflects on the application of international standards relating to the protection of the rights of those facing the death penalty and discusses various international and regional initiatives for the implementation of resolution 67/176.

* A/69/150.

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I. Introduction

1. In resolution 67/176, the General Assembly requested the Secretary-General to report on the implementation of moratoriums on the use of the death penalty at its sixty-ninth session. On the basis of that request, the Office of the United Nations High Commissioner for Human Rights (OHCHR), on behalf of the Secretary-General, sent a note verbale to all Member States and observers on 18 March 2014, requesting the relevant information. Departments and offices of the Secretariat, international and regional organizations, inter-governmental bodies, the bodies and organizations of the United Nations system, national human rights institutions and non-governmental organizations also contributed to the present report.[1]

2. In the present report, the Secretary-General draws the attention of the General Assembly to his recent reports(and A/HRC/24/18, and A/HRC/27/ 23 and Corr.1) on the question of the death penalty, submitted to the Human Rights Council. He also draws attention to the report of the United Nations High Commissioner for Human Rights (A/HRC/27/26), submitted pursuant to Council decision 22/117, on the high-level panel discussion of the Human Rights Council held on 5 March 2014 on the question of the death penalty.[2]

3. The present report covers the period from January 2013 to June 2014. The first section of the present report reviews the situation regarding the global use of the death penalty, including trends towards universal abolition and the establishment of moratoriums. The second section discusses the application of international norms and standards relating to the protection of the rights of those facing the death penalty. The third section outlines international, regional and national initiatives that promote the universal abolition of the death penalty.

II. Data on the use of the death penalty

4. In its resolution 67/176, the General Assembly called upon all States to "make available relevant information with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty".

5. As noted by the Secretary-General in his recent reports to the Human Rights Council, up-to-date and accurate global figures on the application of the death penalty are difficult to obtain. Some Governments are reluctant to release information on the number and other details of individuals executed. Some States continue to classify the data on the use of the death penalty as a State secret, the disclosure of which amounts to a criminal offence. In countries affected by conflict, the problem of transparency is further compounded, and it may be impossible to obtain execution-related information.

6. During the reporting period, the human rights treaty bodies continued to call upon States parties to take all measures necessary to ensure the accessibility of

[1] The original contributions are on file with the Secretariat and are available for consultation.

[2] See also the annex to note verbale A/67/841, in which 47 Member States expressed their objection to imposing a moratorium on the use of the death penalty or its abolition.

information on the death penalty. For instance, the Committee against Torture expressed deep concern, inter alia, over the unnecessary secrecy and uncertainty surrounding executions in Japan (CAT/C/JPN/CO/2, para. 15). It further noted that refusing to provide advance notice of the date and time of execution to convicted persons and their family members was a clear human rights violation. Several special procedures mandate holders of the Human Rights Council also urged States, including Belarus[3] and Iraq,[4] to refrain from secret executions.

III. Developments since the adoption of General Assembly resolution 67/176

7. Approximately 160 of the 193 Member States of the United Nations have abolished the death penalty or introduced moratoriums, either in law or in practice.

8. Since the adoption of General Assembly resolution 67/176 in December 2013, several States have undertaken initiatives towards the abolition of the death penalty. Benin repealed the death penalty from its criminal procedure code; Equatorial Guinea established a temporary moratorium; Pakistan reintroduced its moratorium; Nigeria confirmed the continuation of its moratorium at the federal level; and the President of the United Arab Emirates ordered a general stay on executions. In the United States of America, Maryland became the eighteenth State in the country to abolish the death penalty and Washington State introduced a moratorium on the death penalty.

9. During the reporting period, several initiatives restricted the use of the death penalty. For instance, Antigua and Barbuda adopted the Offences against the Person (Amendment) Act to remove the mandatory imposition of the death penalty for murder.[5] Bangladesh abolished the death penalty for children through the enactment of the 2013 Children Act.[6] China amended its criminal procedure law to require that all interrogations of individuals potentially facing the death penalty or life imprisonment be recorded or videotaped, and authorized the Supreme People's Court to review all cases where death sentences had been issued. China's national human rights action plan for 2012 to 2015 includes measures aimed at strengthening safeguards in all death penalty cases. Thailand reported that its Ministry of Justice was studying the possibility of the abolition of the death penalty. Sri Lanka appointed a special committee to review its penal code, make recommendations regarding the death penalty and examine the possibility of commuting death sentences to life imprisonment. Cote d'Ivoire also established a committee to revise the penal code and the criminal procedure code with the aim of abolishing the death penalty.

10. The judicial authorities in some States also continued to restrict the application of the death penalty by introducing judicial guidelines for capital cases. For

[3] OHCHR press release, "Halt further executions — UN expert calls on Belarus for an immediate death sentence moratorium". Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14537&LangID=E.

[4] OHCHR press release, "UN expert calls for immediate halt to executions and surrounding secrecy in Iraq". Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12395&LangID=E.

[5] See http://laws.gov.ag/acts/2013/a2013-4.pdf.

[6] Section 52 of Act No. 24 of 2013 states: "Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death, transportation or imprisonment".

instance, the Supreme Court of Uganda issued the Sentencing Guidelines for Courts of Judicature stipulating, inter alia, that courts in Uganda "may only pass a sentence of death in exceptional circumstances in the 'rarest of the rare' cases where the alternative of imprisonment for life or other custodial sentence is demonstrably inadequate". The Supreme Court of India adopted guidelines on clemency and the treatment of death row prisoners.[7]

11. Some trends in the gradual abolition of the death penalty were noted in the discussions and interactive dialogues held by the Human Rights Council, in particular during the universal periodic review process. At the fifteenth session of the universal periodic review held from 21 January to 1 February 2013, Botswana highlighted that it was working towards the abolition of mandatory death sentences and would undertake awareness-raising campaigns with a view to raising issues relating to the death penalty (see A/HRC/23/7 and Corr.1, para. 92). Barbados supported the recommendations, inter alia, to follow up on the request to remove mandatory death sentences for murder and treason and to promote open debates on the death penalty (A/HRC/23/11/Add.1, para. 18). Tonga stated that it had instituted a de facto moratorium in 1982 and that its guiding policy only permitted the death penalty, in the context of murder, to be applied in the "rarest of rare cases" (A/HRC/23/4, para. 32, and A/HRC/23/4/Add.1, para. 14).

12. Bahamas stated that, in 2006, its Privy Council had ruled that Bahamian law prescribed a non-mandatory death sentence. In 2012, the Privy Council had imposed further judicial restrictions by ruling that the death penalty should only be imposed where the offence was deemed to be the "worst of the worst" (A/HRC/23/8, para. 20). The United Arab Emirates accepted the recommendations to respect minimum human rights standards in the use of the death penalty and to reduce the number of crimes for which the death penalty could be imposed (A/HRC/23/13/Add.1, para. 5 (a)). Mali accepted the recommendations to establish a moratorium and to seek out measures that supported the complete elimination of the death penalty (A/HRC/23/6, paras. 111.17 and 111.18).

13. At the sixteenth session of the universal periodic review held from 22 April to 3 May 2013, Burkina Faso confirmed that it had extended the moratorium on the death penalty and had accepted the recommendation to prohibit the application of the death penalty to minors (A/HRC/24/4, paras. 35 and 135.11). Cameroon noted that only one execution had been carried out since 1982 and that it would eventually abolish the death penalty, but that it was important to take into account the opinion of its electorate (A/HRC/24/15, para. 58). The Russian Federation confirmed that there had been a legal prohibition on the imposition and application of the death penalty for more than 15 years and that it had also extended the moratorium on the death penalty (A/HRC/24/14, paras. 33, 67 and 119). Bangladesh stated that the death penalty was restricted to the most heinous crimes and could not be imposed on children under 18 (A/HRC/24/12, para. 62). Cuba indicated it had instituted a de facto moratorium on the death penalty (A/HRC/24/16, para. 60). China highlighted that, although it retained the death penalty, it was committed to exercising strict caution in reducing its application. Furthermore, China accepted the recommendations to continue to strictly observe the stipulations on evidence used to examine and decide death penalty cases and to adopt stricter standards (A/HRC/25/5, paras. 84 and 186.110).

[7] India, *Shatrughan Chauhan and Anr v. Union of India and Ors*, Writ Petition (Criminal) No. 55 of 2013, decided on 21 January 2014.

14. At the seventeenth session of the universal periodic review, held from 21 October to 1 November 2013, the Central African Republic stated that it had instituted a moratorium on the death penalty and had drafted a bill to abolish the death penalty (A/HRC/25/11, paras. 14, 35, and 63). Malaysia reported that its Attorney-General's Chambers had undertaken initiatives to conduct in-depth research, scheduled for completion by the end of 2014, on the death penalty, (A/HRC/25/10, para. 67). The Comoros stated that its criminal code no longer contained a death penalty and that there had been no executions since 2009 (A/HRC/26/11, para. 10). Yemen indicated that it only imposed the death penalty for the most serious crimes and that it had accepted the recommendation to review its death penalty legislation to ensure full compliance with the International Covenant on Civil and Political Rights, particularly the provision prohibiting the application of the death penalty to minors. Yemen also accepted the recommendation to legally prohibit death by stoning and to reduce the number of crimes that were punishable by the death penalty (A/HRC/26/8, paras. 115.54 and 115.55).

15. At the eighteenth session of the universal periodic review, held from 27 January to 7 February 2014, Viet Nam stated that since 2009 it had been reducing the number of crimes subject to the death penalty and that it would continue to do so (A/HRC/26/6, para. 59). It accepted the recommendation to continue reform efforts towards the eventual abolition of the death penalty (A/HRC/26/6, paras. 143.5 and 143.95).

16. At the nineteenth session of the universal periodic review held from 28 April to 9 May 2014, Dominica confirmed that it had instituted a self-imposed moratorium on the use of the death penalty in 1986. However, popular sentiment supported the reintroduction of death sentences for murder (A/HRC/27/9, para. 15). Equatorial Guinea indicated its commitment to observing the existing moratorium and to ensuring the commutation of death sentences (A/HRC/15/4/Add.1, para. 24).

IV. Ratification of the relevant international and regional instruments

A. Second Optional Protocol to the International Covenant on Civil and Political Rights

17. In a statement delivered at the high-level discussion of the Human Rights Council on the question of the death penalty, held during its the twenty-fifth session, on 5 March 2014, the Secretary-General called upon States that had not yet done so to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights. The Secretary-General expressed his sincere hope to see increased ratification of the Protocol since 2014 marked the twenty-fifth anniversary of the Protocol (see A/HRC/27/26, para. 6).

18. In a statement delivered in June 2014, the United Nations High Commissioner for Human Rights outlined reasons to aim for the universal ratification of the Second Optional Protocol to the International Covenant on Civil and Political

Rights.[8] First, adopting the Protocol had national significance by obliging States parties to take all necessary measures to abolish the death penalty within their jurisdictions. Second, ratification of the Protocol protects against regression; States parties to the Protocol were obliged to irrevocably abolish the death penalty irrespective of any changes in government or political situations, thus preventing the reintroduction of capital punishment in the future. Third, adopting the Protocol had international significance. It opened the way to independent and international supervision to ensure that abolitionist countries complied with their obligations. Furthermore, the Second Optional Protocol was a means for States to establish their abolitionist stance through international law. Having a wide-scale ratification of the Second Optional Protocol helped to generate the "critical mass" and momentum needed to ultimately outlaw the death penalty under international law.

19. As at July 2014, 81 States had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims to abolish the death penalty. During the reporting period, Bolivia (Plurinational State of), Gabon, Guinea-Bissau, El Salvador, Latvia, and Poland acceded to the Protocol, and Angola signed it.[9]

20. States continued to use the universal periodic review process of the Human Rights Council to promote the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights. During the reporting period, several States, including Burkina Faso (A/HRC/24/4, para. 11), the Central African Republic (A/HRC/25/11, paras. 104.2-104.11), the Congo (A/HRC/25/16, paras. 111.9-111.18), Cambodia (A/HRC/26/16, paras. 118.1 and 118.2), the Comoros (A/HRC/26/11, paras. 110.1-110.10), Côte d'Ivoire (A/HRC/27/6, paras. 127.8 and 127.9) and Equatorial Guinea (A/HRC/27/13, para. 134.48) accepted recommendations to ratify or accede to the Second Optional Protocol.

21. The Human Rights Committee also continued to play an important role in encouraging States to ratify and implement the Second Optional Protocol. For instance, while examining the initial report of Sierra Leone, the Committee recommended to Sierra Leone that it expedite its efforts to abolish the death penalty and to ratify the Second Optional Protocol (CCPR/C/SLE/CO/1, para. 18).

B. Regional instruments

22. With regard to regional instruments, during the reporting period, Poland ratified Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances. The African Commission on Human and Peoples' Rights developed a draft additional protocol to the African Charter on Human and Peoples' Rights on the abolition of the death penalty. Reportedly, the draft protocol has been submitted to the African Union for adoption later in 2014.

[8] The statement was delivered by the Deputy High Commissioner at a side-event on the occasion of the twenty-fifth anniversary of the Second Optional Protocol, held on 12 June 2014, which was organized by the International Commission against the Death Penalty, in cooperation with a group of States and the World Coalition against the Death Penalty.

[9] The full list of ratifications is available from https://treaties.un.org.

V. Protection of the rights of those facing the death penalty

23. Algeria, Bahrain, Egypt, Iraq, Kuwait, Libya, Qatar, the Sudan, the Syrian Arab Republic and Trinidad-Tobago provided information regarding the legal guarantees and safeguards provided in the capital cases within their respective jurisdictions. Such guarantees and safeguards included, inter alia, the right to public trial, the right to legal presentation and counsel, including the provision of a counsel financed by the State, respect for the principle of presumption of innocence, the right to appeal, freedom from torture and the prohibition of the death penalty against minors, pregnant women and/or persons with mental or intellectual disabilities.[10]

24. Trends with regard to the protection of the rights of those facing the death penalty can be gleaned from recent annual reports of the Secretary-General on the use of the death penalty, submitted to the United Nations Human Rights Council (A/HRC/18/20 and A/HRC/21/29 and Corr.1). Some of the key trends are outlined below.

A. Limiting the use of the death penalty to the "most serious crimes"

25. In accordance with article 6, paragraph 2, of the International Covenant on Civil and Political Rights, States that have not yet abolished the death penalty may only impose it for the "most serious crimes". In international human rights jurisprudence, that term has been interpreted as allowing the death penalty to be applied only to the crime of murder or intentional killing (see E/2010/10, paras. 56-68).

26. In his recent report to the Human Rights Council, the Secretary-General reported that there were currently 32 States or territories that prescribed the death penalty for "drug offences" (A/HRC/21/29, para. 25). During the reference period, hundreds of people were reportedly executed for "drug offences", particularly in the Islamic Republic of Iran (A/HRC/25/61, paras. 84-87). He indicated that the human rights treaty bodies continued to address the issue of the use of the death penalty for drug-related crimes. For instance, the Human Rights Committee recommended that Indonesia review its legislation to ensure that crimes involving narcotics were not punishable by death (CCPR/C/IDN/CO/1, para. 10). In a note verbale issued in March 2014, the International Narcotics Control Board encouraged States that still imposed the death penalty for drug-related offences to abolish that punishment.

27. The application of the death penalty for overly broad and vaguely defined terrorist offences remains a serious concern, particularly in cases where such acts did not meet the threshold of "most serious crimes", and could amount to violations of article 6 of the International Covenant on Civil and Political Rights. Furthermore, several States continued to impose and carry out the death penalty in connection with actual or purported engagement in consensual sexual acts, such as "adultery", "sodomy" and "consensual adult homosexual conduct" (A/HRC/21/29, para. 58). The Human Rights Committee expressed concerns that in Mauritania, in direct violation of the provisions of the International Covenant on Civil and Political Rights, homosexuality was a crime punishable by death. The Committee recommended that Mauritania decriminalize homosexuality (CCPR/C/MRT/CO/1, para. 8). While reviewing the second periodic report of the Islamic Republic of Iran,

[10] Submissions of States are on file with the Secretariat and are available for consultation.

the Committee on Economic, Social and Cultural Rights expressed concern over the country's criminalization of consensual same-sex sexual activity, where convicted persons could be subject to the death penalty. The Committee recommended that the Islamic Republic of Iran repeal or amend all legislation that could result in the discrimination, prosecution or punishment of people on the basis of their sexual orientation or gender identity (E/C.12/IRN/CO/2, para. 7).

28. In some countries, conversion from or the renunciation of Islam is considered apostasy and a capital crime. The death penalty has also been extended to cases of blasphemy. According to international human rights jurisprudence, none of those crimes meets the threshold of "most serious crimes." (CCPR/C/79/Add.85, para. 8). In May 2014, a group of United Nations human rights experts expressed concerns after a pregnant woman in the Sudan was sentenced to death and 100 lashes for marrying a Christian man and for the crime of apostasy. They stated, inter alia, that according to international law the death penalty might only be imposed for the most serious crimes, if at all. Choosing and/or changing one's religion was not a crime at all; on the contrary, it was a basic human right.[11]

B. Fair trial guarantees

29. In accordance with General Comment No. 32 of the Human Rights Committee, on the right to equality before courts and tribunals and to a fair trial, the imposition of the death sentence upon the conclusion of a trial that has not respected the provisions of article 14 of the International Covenant on Civil and Political Rights constitutes a violation of the right to life. Furthermore, forcing an individual to make or sign, under duress, a confession admitting guilt violates article 7 (prohibiting torture and inhuman, cruel or degrading treatment) and article 14, paragraph 3 (g) (prohibiting compulsion to testify against oneself or confess guilt) of the International Covenant on Civil and Political Rights (CCPR/C/GC/32, paras. 59 and 60).

30. In his reports to the Human Rights Council, the Secretary-General indicated that in some States where individuals were sentenced to death or executed, the death penalty was imposed following proceedings that might not have met international fair trial standards. In many cases, the sentences were based on "confessions" that were allegedly extracted through torture or other ill-treatment. During the reporting period, a new phenomenon of sentencing large groups of individuals in mass trials emerged and led to major concerns that such mass trials violated international human rights standards for fair trial guarantees and other safeguards. In particular, those trials were marred by procedural irregularities, including lack of adequate and timely access to lawyers and instances of trials in absentia. Furthermore, the Secretary-General indicated that the exact charges against each defendant were not clear, given that, in many cases, they were not individually read out in court. The courts also did not adhere to the presumption of innocence. Pursuant to General Comment No. 32 of the Human Rights Committee, the presumption of innocence, which was fundamental to the protection of human rights, imposed on the prosecution the burden of proving the charge, guaranteed that no guilt could be presumed until the charge had been proved beyond reasonable doubt, ensured that the accused had the benefit of doubt and

[11] OHCHR press release, "UN rights experts condemn death sentence against pregnant mother for apostasy and adultery". Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14618&LangID=E.

required that persons accused of a criminal act must be treated in accordance with that principle (A/HRC/27/23 and Corr.1, paras. 43-53).

C. Clemency, pardon or commutation

31. Pardon or commutation of death sentences constitutes positive steps in the process of the abolition of the death penalty. Article 6(4) of the International Covenant on Civil and Political Rights states that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. During the reference period, collective pardons or commutations of death sentences were recorded in a number of States. In January 2013, Mali reported that death sentences were systematically commuted to life (see A/HRC/23/6, para. 15). In May 2013, in applying article 51 of Zambia's national constitution, the President of Zambia commuted 113 death sentences to life imprisonment.[12] With Presidential Pardon Order No (1/2014) of 2 January 2014, the President of Myanmar commuted all death sentences to life imprisonment. In February 2014, the President of Cameroon commuted death sentences to life imprisonments. In the United States, the State of Alabama passed legislation in April 2013 that allowed the Board of Pardons and Paroles to grant posthumous pardons in cases involving racial or social injustice.

32. In several States, judicial authorities also took the initiative to commute death sentences to a lesser punishment. For instance, since January 2014, the Supreme Court of India has issued a series of decisions commuting death sentences on the grounds of delay in the disposal of mercy petitions. The Court held that such delays caused psychological torture, which could lead to mental illness that would thus justify commutation.[13] The Supreme Court of India also issued a judgement that "poverty, socio-economic, psychic compulsions, undeserved adversities in life" constituted new mitigating factors to be considered by courts in commuting a death sentence to life imprisonment.[14] In 2013, the Ugandan judiciary held special mitigation sessions for the beneficiaries of the 2005 landmark judgment *Kigula and 416 Others v. Attorney General of Uganda*. In the *Kigula* judgment, the Constitutional Court of Uganda found that the mandatory nature of the death penalty was unconstitutional because it did not provide the Court with the opportunity to take into account individual mitigating circumstances. In 2009, the Ugandan Supreme Court upheld the decision of the Constitutional Court and affirmed that the mandatory death penalty and excessive delay on death row were unconstitutional. Accordingly, the Supreme Court held that the inmates whose death sentences were not confirmed by the Supreme Court should be re-sentenced by the High Court. As of December 2013, the mitigation hearings resulted in the release of 22 people and the commutation to lesser punishments for approximately 300 prisoners on death row.

33. In 2013, the High Court of Singapore began reviewing the cases of 32 prisoners who had been mandatorily sentenced to death for drug-related offences

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[12] http://www.handsoffcain.info/archivio_news/201305.php?iddocumento=17305542&mover=0.

[13] India, *Shatrughan Chauhan and Anr. v. Union of India and Ors*, Writ Petition (Criminal) No. 55 of 2013 (judgement issued on 21 January 2014); *Shriharan and Suthendraraja and Perarivalan v. Union of India and Others*, Supreme Court of India, 18 February 2014; *Devender Pal Singh Bhullar v. State (NCT) of Delhi* (2013) 6 SCC 195.

[14] India, *Sunil Damodar Gaikwad v. State of Maharashtra*, Criminal Appeal Nos. 165-166 of 2011.

and murder, following the adoption of the Penal Code (Amendment) Act 2012 and the Misuse of Drugs (Amendment) Act 2012, which allowed judicial discretion in sentencing under certain circumstances. Several death sentences were commuted to life imprisonment and other lesser punishment.

34. The authorities in the Islamic Republic of Iran reported that the payment of "blood money" spared 358 Iranians from execution between March 2013 and March 2014. Under the Islamic sharia law of *diya* (restitution), the victim's family is given a choice to either forgive the accused and not demand punishment, or demand a payment (*diya*) as a punishment for the crime committed. The use of a similar form of pardon system has been reported in Kuwait, Pakistan, Saudi Arabia and the United Arab Emirates.

D. Prohibition of extradition, expulsion or deportation in death penalty cases

35. Pursuant to international human rights jurisprudence, an individual may not be extradited, expelled or deported to a country where there is a necessary and forcible threat that the International Covenant on Civil and Political Rights will be violated. During the reporting period, international, regional and national mechanisms addressed the prohibition of extradition, expulsion or deportation of individuals to a third country where they might face the death penalty. For instance, the Human Rights Committee welcomed the actions of the judiciary in Macao, China, in blocking the transfer of a person to China. However, the Committee voiced concerns that, despite its previous recommendation to that effect (CCPR/C/79/Add.115, para. 14), Macao, China, had not adopted any regulation regarding the transfer of offenders from Macao, China, to China to protect the persons concerned from the risk of the death penalty or ill-treatment upon transfer (CCPR/C/CHN-MAC/CO/1, para. 11).

36. The new European Union guidelines on the death penalty, adopted in April 2013, reaffirmed that, in accordance with article 19(2) of the European Union Charter of Fundamental Rights, no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment. In April 2013, the Governments of the United Kingdom of Great Britain and Northern Ireland and Morocco signed a treaty on extradition. The treaty stipulates, inter alia, that the requested State may refuse the extradition unless the requesting State gives sufficient assurances to the requested State that the death penalty shall not be imposed.[15]

37. In December 2013, the European Court of Human Rights held public hearings in the cases of *Al-Nashiri v. Poland* (Application No. 28761/11) and *Husayn (Abu Zubaydah) v. Poland* (Application No. 7511/13). Both applicants alleged that they were victims of "extraordinary renditions" by the United States Central Intelligence Agency because, despite a real risk that, inter alia, they would be subjected to the death penalty in a trial by a United States military commission, they were still apprehended and extrajudicially transferred, with the knowledge of the Polish authorities, to a secret Polish detention site, for the purpose of interrogation by a United States military commission.

[15] See www.gov.uk/government/uploads/system/uploads/attachment_data/file/226638/8682.pdf.

38. In South Africa, the Constitutional Court decided that the Government was not entitled to deport or extradite a person charged with a capital offence in a country seeking his extradition, after having sought and been refused a written assurance from the State requesting extradition that the death penalty would not be imposed, or, if imposed, would not be carried out.[16]

E. Methods of execution

39. The methods of execution vary among States/areas that continue to impose the death penalty. During the reporting period, the following methods of executions were used: beheading (Saudi Arabia), electrocution (United States), hanging (Afghanistan, Bangladesh, Botswana, India, Iran (Islamic Republic of), Iraq, Japan, Kuwait, Malaysia, Nigeria, South Sudan, Sudan and State of Palestine (Gaza)), lethal injection (China, Viet Nam and United States), and shooting (China, Indonesia, Democratic People's Republic of Korea, Saudi Arabia, Somalia, Yemen and Taiwan Province of China).

40. In Papua New Guinea, legal execution methods were changed to include lethal injection, electrocution, firing squad and asphyxiation, in addition to hanging. In Viet Nam, an amendment of the criminal verdict enforcement law came into effect on 27 June 2013, which allows drugs, sourced from outside the European Union or manufactured in the country, to be used in lethal injections for carrying out executions. Following the adoption of the law, executions were resumed and several people were reportedly executed by lethal injection in August 2013.

41. Following a shortage of available drugs normally used in lethal injection protocols and amid the various restrictions imposed by foreign Governments, the European Union, pharmaceutical companies, a number of states in the United States (e.g., Arkansas, California, Florida, Louisiana, Montana, North Carolina and Ohio) amended their execution procedures to include a one-drug protocol and/or to allow new chemicals to be used. Reportedly, two approaches have emerged in the search for new executions methods by lethal injection in the United States: (a) some states have adopted new, experimental executions protocols using untested manufactured drugs; (b) some other states have turned to compounded drugs. Under both approaches, the use of those untested means of execution has demonstrably increased the risks of such executions amounting to cruel and unusual punishment.

42. In July 2013, an execution was stopped in Georgia, United States, hours before it was to be carried out, in connection with ongoing litigation over the state's lethal injections secrecy act.[17] The act makes the identities of companies and individuals who manufacture and supply lethal injection drugs, and the identities of the doctors hired by the state to oversee executions, a "state secret" shielded from disclosure to the public, the media and even the judiciary.

43. In its concluding observations on the periodic report of the United States, the Human Rights Committee noted with concern reports about the administration of untested lethal drugs to execute prisoners and the withholding of information on

[16] *Minister of Home Affairs and Others v. Tsebe and Others; Minister of Justice and Constitutional Development and Another v. Tsebe and Others*: Case CCT 110/11 and CCT 126/11, [2012] ZACC 16; judgement, July 2012.

[17] Georgia law, House Bill 122, passed in March 2013.

such drugs in some states. The Committee recommended that the United States ensure that lethal drugs used for executions only originate from legal, regulated sources that are approved by the US Food and Drug Administration (CCPR/C/USA/CO/4).

44. After the execution of a death row prisoner in Oklahoma, United States in May 2014, OHCHR expressed concerns about the suffering endured by persons during their executions, as it may amount to cruel, inhuman and degrading treatment, in violation of international human rights law.[18] Subsequently, the Governor of Oklahoma suspended executions, and the Office of the Attorney General of the United States, following a presidential order, initiated an investigation into state-level execution protocols and related policy issues.

45. During the reporting period, at least several States continued to retain stoning as a method of execution; and judiciaries in several States continued to issue sentences of death by stoning, although reportedly none were carried out. That method of execution has been largely prescribed for the crime of "adultery" (*zina*) and "homosexual acts", neither of which meets the threshold of "most serious crimes". Stoning breaches the International Covenant on Civil and Political Rights and norms prohibiting torture and inhuman treatment. During the examination of the fifth periodic report of Yemen under the International Covenant on Civil and Political Rights, the Human Rights Committee recommended that it officially abolish stoning as a method of execution (see CCPR/CO/84/YEM, para. 15).

F. Prohibition of the use of the death penalty against children, persons with mental or intellectual disabilities and other vulnerable groups

46. In his recent report to the Human Rights Council (A/HRC/27/23 and Corr.1, paras. 58-61), the Secretary-General reported that the legislation of 15 States allowed the application of the death penalty to children. During the reporting period, in violation of articles 6 of the International Covenant on Civil and Political Rights and 37 of the Convention on the Rights of the Child, several States carried out the execution of individuals accused of crimes committed while under 18 years of age.

47. In accordance with international human rights standards, the death penalty should not be imposed on persons with mental or intellectual disabilities (see E/2010/10). The judiciaries of India, Japan and United States issued rulings that prohibited executions of persons with mental or intellectual disabilities (see A/HRC/27/23 and Corr.1, paras. 62-64). Qatar reported that under its penal code, mental disability in partial incapacity is a mitigating factor while total mental incapacity or disability precludes criminal responsibility, and the use of the death penalty against such a person is prohibited. Furthermore, the authorities of Qatar are obliged to provide medical support to such persons.

[18] See www.un.org/apps/news/story.asp?NewsID=47706.

VI. International, regional and national initiatives to implement General Assembly resolution 67/176

A. Human Rights Council

48. During the reporting period, the Human Rights Council continued to address the question of the death penalty. Pursuant to its decision 22/117, adopted in March 2013, the Council held a high-level panel discussion during its twenty-fifth session, on the question of the death penalty. The aims of the panel discussion were to exchange views on advances, best practices and challenges relating to the abolition of the death penalty and the introduction of a moratorium, and allow an exchange of views relating to national debates on, or processes aiming at, the abolition of the death penalty. Panellists and delegates emphasized the responsibility of the international community for moving universal abolition of the death penalty forward. They highlighted that discussions on the death penalty should continue at both the national and international levels and engage all segments of the society, including innocent people who had suffered wrongful convictions. They concluded that there should be a sharing of experiences and efforts at the national, regional and international levels.

49. On 25 June 2014, the Human Rights Council adopted resolution 26/2 on the question of the death penalty in which it strongly condemned the fact that the use of the death penalty lead to violations of the human rights of those facing the death penalty and of other affected persons. The Council further urged States that had not yet abolished the death penalty to protect the rights of those facing the death penalty. The Council also decided to convene biennial high-level panel discussions to further exchange views on the question of the death penalty, the first of which is to be held at the twenty-eighth session of the Council and will address regional efforts aiming at the abolition of the death penalty and related challenges. The Council requested that the Secretary-General dedicate the 2015 supplement to his quinquennial report on capital punishment to the theme of the consequences related to the imposition and application of the death penalty on the enjoyment of the human rights by those facing the death penalty and other affected persons.

50. Special procedures mandate holders of the Human Rights Council continued to monitor the application of international human rights standards for the protection of rights of those facing the death penalty. During the reporting period, the Special Rapporteur on extrajudicial, summary or arbitrary executions and other Human Rights Council special procedures mandate holders urged several States, including Belarus, Egypt, the Democratic People's Republic of Korea, Iran (Islamic Republic of), Iraq and Papua New Guinea to maintain stringent respect for due process and fair trial guarantees in death penalty cases (A/HRC/27/23, para 49).

B. United Nations High Commissioner for Human Rights

51. The United Nations High Commissioner for Human Rights continued to advocate and advance the abolition of the death penalty, under her mandate to promote and protect the enjoyment and full realization by all people of all human rights. The OHCHR management plan for 2014-2017 includes a specific strategic focus aimed at increasing the number of States that have abolished the death penalty

and/or, pending abolition, increasing the compliance of States that still use the death penalty with international human rights norms and standards. OHCHR is contributing to this result by implementing several strategic interventions, such as advocating for the ratification and implementation of the Second Optional Protocol to the International Covenant on Civil and Political Rights, providing legal and policy advice to States and other stakeholders on the establishment of moratoriums and assisting States in the effective implementation of international norms and standards. OHCHR will organize a high-level event on leadership and "moving away from the death penalty" during the gathering of Heads of States at the sixty-ninth session of the General Assembly in September 2014.

52. During the reporting period, in cooperation with Italy, Chile, the Philippines, Thailand and the European Union, OHCHR organized a series of global and regional events on "moving away from the death penalty". During the events, discussions were held on wrongful convictions, deterrence and public opinion, discriminatory practices in the use of the death penalty, best practices and challenges in the implementation of moratoriums, and the abolition of the death penalty in South-East Asia. OHCHR also continued to monitor the application of the death penalty. Concerns were expressed through press releases and communications to the relevant authorities of several States regarding the imposition of death sentences in violation of international standards guaranteeing the protection of the rights of those facing the death penalty. OHCHR also continued its advocacy work with States retaining the death penalty, notably for the establishment of a moratorium pursuant to General Assembly resolution 67/176. In June 2013, at the fifth World Congress against the Death Penalty, the United Nations High Commissioner for Human Rights urged all States that had resumed executions or that continued to impose the death penalty to immediately stop said regression in human rights protection and to impose moratoriums (A/HRC/25/19, para. 34).

C. United Nations Children's Fund

53. The United Nations Children's Fund (UNICEF), in partnership with States and other stakeholders, has applied various approaches to address the problem of the use of the death penalty against minors. UNICEF in Yemen advocated an immediate suspension of the use of the death penalty for crimes committed by persons under 18 years of age. It submitted a list of 52 cases of death row prisoners, who were sentenced to death for crimes committed before the age of 18, to the Office of the President of Yemen with a request to suspend all executions in those cases. The Office subsequently instructed the relevant bodies to suspend the executions and also asked Yemen's Supreme Court to form a committee to review thee cases and make recommendations. UNICEF in Yemen also supported the establishment of a specialized forensic committee that utilizes the latest scientific methods to determine the most accurate age of death row prisoners.

54. In the Islamic Republic of Iran, the 2013 adoption of a revised penal code (specifically its child-related provisions that prohibit the application of the death penalty to children in certain cases) created a more enabling environment for the implementation of juvenile justice standards for children. In partnership with the judiciary of the Islamic Republic of Iran, UNICEF supported the implementation of the child-related provisions of the revised penal code. UNICEF noted, however, that it was still too early to assess the extent to which the revised penal code had

contributed to reducing the number of capital sentences issued in cases involving juveniles. It recommended that the Islamic Republic of Iran, prior to the adoption of the new penal code, provide a special review of the cases of those children who had been sentenced to death. In the Sudan, UNICEF supported the National Council for Child Welfare in conducting a rapid assessment to verify whether those sentenced to death or executed were under the age of 18.

D. Special Representative of the Secretary-General on Violence against Children

55. During the reporting period, the Special Representative of the Secretary-General on Violence against Children continued her global advocacy for the prevention and elimination of all forms of violence against children, including the death penalty. The Special Representative placed special emphasis on the enactment of national legislation banning capital punishment and all forms of violence against children. The abolition of the death penalty was also identified as a critical area of concern in the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on the prevention of and responses to violence against children within the juvenile justice system, which has been submitted to the Human Rights Council (A/HRC/21/25).

56. In her message to the Human Rights Council in September 2013, the Special Representative of the Secretary-General on Violence against Children emphasized that the sentencing to death or the execution of a parent compromised enjoyment by children of a wide spectrum of child rights. In that regard, she emphasized the critical importance of ensuring that urgent attention be given to the situation of children whose parents were facing the death penalty. Such children should be provided with a protective environment and adequate support, including access to services and measures that would assist with their recovery and reintegration (A/HRC/25/33, para. 8).

E. International Commission against the Death Penalty

57. During the reporting period, the International Commission against the Death Penalty, with the support of a group of States, undertook a number of activities pursuant to General Assembly resolution 67/176 in order to reinforce and consolidate the global trend towards the abolition of capital punishment. The Commission released a report entitled "How States abolish the death penalty", which reviews the processes towards the abolition of capital punishment by analysing the experiences of 13 States: Argentina, Cambodia, France, Haiti, Kyrgyz Republic, Mexico, Mongolia, Philippines, Rwanda, Senegal, South Africa, Turkey and United States (States of Connecticut and New Mexico). Drawing on those lessons and experiences, the report provides guidance to States on how to abolish the death penalty.

58. The International Commission against the Death Penalty and the Inter-Parliamentary Union jointly organized a panel discussion on the theme "Parliamentarians: a critical force in promoting the abolition of the death penalty". The Commission also undertook missions to Barbados, Jamaica, Lebanon,

Suriname, Tajikistan, Trinidad and Tobago and the United States, where it conducted consultations with State authorities and civil society organizations to advance the abolition of the death penalty.

F. European Union initiatives

59. The European Union relies on diplomacy and cooperation for its work towards the abolition of the death penalty. The new European Union guidelines on the death penalty adopted in 2013 direct the heads of mission of the member States of the European Union to report regularly on the application of the death penalty in third countries and to regularly update their respective European Union human rights country strategies. The guidelines reiterate the strong opposition of the European Union to the death penalty and support for its full abolition. They also clarify the minimum standards to which States that still maintain the death penalty have to adhere, including the definition of "most serious crimes" and the notion that the death penalty must not be imposed for "non-violent acts". They have added economic, political and drug-related crimes to the list of offences for which the application of the death penalty should be prohibited.[19]

60. The issue of the death penalty was also systematically raised in numerous dialogues and consultations on human rights held by the European Union with third countries. The European Union also continued to raise its opposition to the death penalty in all relevant forums, including at the United Nations, the Organization for Security and Cooperation in Europe and the Council of Europe. Through the European Instrument for Democracy and Human Rights, the European Union supports the efforts of abolitionist civil society organizations in retentionist States.

G. African Commission on Human and Peoples' Rights

61. The African Commission on Human and Peoples' Rights convened the Continental Conference on the Abolition of the Death Penalty in Africa in July 2014 in Benin, in cooperation with the Benin authorities, and with the participation of high-level representatives of several member States of the African Union, parliamentarians, national human rights institutions and civil society organizations. The Government of Benin proposed the establishment of an African observatory on the death penalty. The declaration adopted at the end of the Conference called upon all members States of the African Union, inter alia, to adopt the draft of the additional protocol to the African Charter on Human and Peoples' Rights, which provides for the abolition of the death penalty in the region. It also highlighted the importance of national human rights institutions in the abolition of the death penalty and urged those institutions to monitor, document and report death penalty and execution cases to the African Commission on Human and Peoples' Rights.

H. The death penalty as a foreign-policy theme

62. In their submissions for the present report, several States indicated that the universal abolition of the death penalty was a key foreign-policy objective.

[19] See http://register.consilium.europa.eu/pdf/en/13/st08/st08416.en13.pdf.

Argentina, Bosnia and Herzegovina, France, Finland, Italy, Israel, Lichtenstein, Lithuania, Mexico, Portugal, Spain, San Marino, Switzerland and the United Kingdom referred to their initiatives at various intergovernmental forums. Some of them also underscored that international assistance contributed to, and was very important for, the universal abolition of the death penalty.[10] With the support of France, Norway, Spain and Switzerland, the fifth World Congress against the Death Penalty was organized in June 2013. In the declaration adopted at the end of the Congress, the Congress, called upon intergovernmental and international organizations to increase their cooperation with States and civil society to promote the universal abolition of the death penalty.[20]

VII. Conclusion and recommendations

63. **Substantial progress has been made towards the universal abolition of the death penalty since the adoption of resolution 67/176 by the General Assembly. Currently, approximately 160 of the 193 Member States of the United Nations have abolished the death penalty or introduced moratoriums, either in law or in practice. States should go beyond simply ceasing executions and aim for a suspension of capital punishment for all who might be, or have been, sentenced to death. National prosecutors may consider no longer seeking the death penalty. Judges may consider not imposing it. In this regard, the highest judicial bodies may consider issuing judicial directives or sentencing guidelines, as appropriate. These initiatives should lead to the full abolition of the death penalty.**

64. **Clemency, pardons and commutations remain critical to the process of the abolition of the death penalty. As stipulated in article 6(4) of the International Covenant on Civil and Political Rights, anyone sentenced to death should have the right to seek pardon or commutation of the sentence. Heads of State and Government and other responsible State authorities should exercise their constitutional and/or legal authority to commute or pardon death sentences.**

65. **States that have abolished the death penalty should not reintroduce it. In that regard, it is critical for States that have not yet acceded to or ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights to do so. The ratification of the Optional Protocol bears great international significance by opening the way for independent and international supervision to ensure that State parties comply with their abolition commitment. Furthermore, the ratification of the Optional Protocol acts as a means for States to establish their abolitionist stance through international law, and thus advances the universal abolition of the death penalty.**

66. **States that still apply the death penalty should comply with the international human rights standards, as stipulated in article 6 of the International Covenant on Civil and Political Rights. In particular, in States that have not abolished the death penalty, capital punishment may only be imposed for intentional killing and may not be mandatory in such cases. The death penalty should not be imposed for "drug offences", "consensual or non-consensual adult sex", "adultery," "sodomy," "blasphemy" or any other acts that do not meet the threshold of "most serious crimes". States should take**

[20] See www.fiacat.org/final-declaration-for-the-5th-world-congress-against-the-death-penalty.

all necessary measures to immediately suspend the use of the death penalty for crimes committed by persons under the age of 18 and to apply all appropriate measures for amending their laws in accordance with article 37 of the Convention on the Rights of the Child.

67. States should also adhere to fair trial guarantees in capital cases. Mass trials, marred by procedural irregularities and non-compliance, pose the risk of violating international human rights standards for fair trial guarantees and other safeguards. In addition, retentionist States must carry out capital punishment in a way that causes the least possible physical and mental suffering.

68. States that have received an extradition request on a capital charge should reserve explicitly the right to refuse extradition in the absence of effective and credible assurances from relevant authorities of the requesting State that the death penalty will not be carried out. The requesting States should provide and respect such effective and credible assurances, if requested to do so.

69. It is important for States to provide up-to-date and accurate global figures on the application of the death penalty. There is a continued lack of transparency on the part of some Governments concerning the number and characteristics of individuals executed, with some States classifying death penalty data as state secrets. States should refrain from executing in secrecy and strive to take all measures necessary to guarantee access to information on the death penalty, including information on advance notice to family members regarding the date of execution.

70. The international community should strive for the universal abolition of the death penalty. In particular, departments and offices of the Secretariat, the bodies and organizations of the United Nations system, regional human rights organizations, intergovernmental bodies and non-governmental organizations should continue and strengthen their support to States in pursuing the abolition of the death penalty.

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Promotion and protection of human rights: implementation of human rights instruments

Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Report of the Secretary-General

Summary

The present report provides information on the operations of the Special Fund established by article 26 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

* A/69/150.

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I. Introduction

A. Submission of the report

1. The present report was prepared in accordance with General Assembly resolution 68/156, in which the Assembly encouraged contributions to the Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and requested the Secretary-General to submit to the Assembly at its sixty-ninth session a report on the operations of the Special Fund.

B. Mandate of the Special Fund

2. The Special Fund was established pursuant to article 26 of the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following a visit to a State party to the Optional Protocol, and to finance the education programmes of national preventive mechanisms.

3. The Special Fund receives voluntary contributions from Governments, intergovernmental and non-governmental organizations and other private or public entities. An overview of contributions to the Special Fund to date is provided in section III of the present report.

C. Management of the Special Fund

4. The Special Fund is administered by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with the Financial Regulations and Rules of the United Nations. As an interim scheme in place until the financial basis of the Fund is consolidated, the OHCHR Grants Committee, an advisory body to the United Nations High Commissioner for Human Rights, advises the High Commissioner on the eligibility of projects and awards grants based on the evaluation criteria set out in the guidelines for applications.

D. Eligibility criteria

5. Grant applications can be submitted for eligible projects aimed at implementing recommendations made by the Subcommittee on Prevention of Torture following a regular visit to a State party to the Optional Protocol, provided the recommendations are contained in a report made public upon request by the State party. At the time of reporting, 10 countries (Argentina, Benin, Brazil, Honduras, Kyrgyzstan, Maldives, Mali, Mexico, Paraguay and Sweden) fulfilled the primary admissibility criteria to seek funding from the Fund.

6. Grant applications may also be submitted for projects aimed at implementing recommendations made by the Subcommittee on Prevention of Torture following an advisory visit to a national preventive mechanism of a State party to the Optional Protocol, provided the recommendations are made public by the relevant national preventive mechanism and/or State party. At the time of reporting, four national

preventive mechanisms had agreed that recommendations addressed to them be published (Germany, Honduras, Republic of Moldova and Senegal), and hence fulfilled the primary admissibility criteria to seek funding from the Fund. In addition, two State parties (Germany and Republic of Moldova) agreed that recommendations addressed to them following such a visit be published, and therefore fulfilled the primary admissibility criteria to seek funding from the Fund.

7. Applications may also be submitted by national human rights institutions that are compliant with the Paris Principles and by non-governmental organizations if the proposed projects are implemented in cooperation with the entity responsible for implementing the recommendations made by the Subcommittee on Prevention of Torture, be it the State party or a national preventive mechanism.

8. Each year, specific thematic priorities are identified in the context of the yearly call for applications, in consultation with the Subcommittee on Prevention of Torture. In addition, projects proposed that aim to address other specific recommendations contained in the visit reports and describing a pressing and compelling need can be considered.

9. The Fund aims to support projects that are sustainable, have a multiplier effect, have a potential for replication or that lay foundations for change. In addition to assistance for the establishment and consolidation of national preventive mechanisms, financial support may be provided for trainings on torture prevention for the judiciary and for personnel of detention centres and other relevant institutions. The Fund also provides assistance for the design of training materials and tools, such as registers, manuals and handbooks, for use by custodial institutions and the judiciary.

II. Activities of the Special Fund

A. Previous calls for applications

10. The Special Fund became operational in July 2011, and the first call for applications was launched on 1 November 2011 for projects to be awarded and implemented in 2012. During the call for applications for 2012, for which applicants could request grants of up to $20,000, 69 applications were received, of which 25 were deemed admissible. Grants totalling $166,877 were awarded to nine projects in five countries (Benin, Honduras, Maldives, Mexico and Paraguay). Details on the grants awarded for 2012 are contained in the annex.

11. The second call for applications to the Special Fund was launched on 15 August 2012. Applicants could request grants of up to $50,000 for project activities to be implemented in 2013. Thirty-four applications were received, of which four did not meet the primary eligibility criteria. Eight grants totalling $298,979.10 were awarded to projects in Benin, Brazil, Honduras, Maldives, Mexico and Paraguay. Details on the grants awarded for 2013 are contained in the annex.

B. Call for applications for 2014

12. The third call for applications to the Special Fund for grants to be awarded for 2014 was launched on 28 August 2013. Applicants could request up to $35,000 for project activities to be implemented in 2014. Twenty-four applications were received, of which six did not meet the primary eligibility criteria. As at 18 July 2014, seven grants totalling $198,509 had been awarded to projects aimed at implementing recommendations in five eligible countries (Benin, Brazil, Honduras, Maldives, Mexico and Paraguay). Details on the grants awarded for 2014 are contained in the annex.

C. Call for applications for 2015

13. The call for applications to the Special Fund for grants to be awarded for 2015 was launched in August 2014.

III. Financial situation of the Special Fund

14. The Fund received $403,362.60 in contributions in 2012 and $144,777 in 2013. In 2014, as at 15 July, the Fund had received $228,878.25 in contributions.

15. The table below shows the contributions received since the issuance of the Fund's previous report in 2013.

Contributions to the Special Fund, 6 August 2013-25 July 2014

Donors	*Amount (United States dollars)*	*Date of receipt*
Argentina	10 000.00	27 February 2014
Czech Republic	9 777.00	19 December 2013
Germany	218 878.25	27 March 2014
Netherlands	125 000.00	20 December 2013
Total contributions received	**363 655.25**	

IV. Making a contribution

16. Since its creation, and despite its relatively limited donor base, the Fund has supported 22 projects in six countries across three regions. Working closely with the Subcommittee on the Prevention of Torture, the Fund has supported the training of more than 1,000 persons in torture prevention techniques and methodology.

17. As the first and only functional fund established by an international human rights treaty, and a model for engagement between the United Nations, State parties, national preventive mechanisms and civil society in the prevention of torture, the Fund's activities should be commensurate with the growth of the activities of the Subcommittee on the Prevention of Torture. The activities have resulted in an expanding number of eligible countries. The Fund's increasing visibility is also expected to lead to a rise in the number of applications.

18. The minimum required on an annual basis to guarantee a functioning Fund able to support an average of 20 projects per year, with a reasonable level of funding per project (e.g., $35,000), would be around $1.4 million. More contributions are therefore required to sustain and consolidate the Fund, which engages States and provides them with technical assistance in implementing activities aimed at preventing torture.

19. Contributions to the Special Fund may be accepted from Governments, intergovernmental or non-governmental organizations, private sector organizations and the general public, in accordance with the Financial Regulations and Rules of the United Nations. Only unearmarked funds are accepted.

20. Contributions to the Special Fund should be marked "Payee: Special Fund established by the Optional Protocol to the Convention against Torture, account CH". Payments may be made in the following ways:

(a) Bank transfer in United States dollars to the United Nations Geneva General Fund, account No. 485001802, J.P. Morgan Chase Bank, 270 Park Avenue, 43rd floor, New York, NY 10017, United States of America (Swift code: CHAS US 33; bank number: (ABA) 021000021);

(b) Bank transfer in euros to the United Nations Office at Geneva, account No. 6161600934, J.P. Morgan Chase AG, Grueneburgweg 2 — 60322 Frankfurt am Main, Germany (Swift code: CHAS DE FX; bank number: (BLZ) 50110800; IBAN: DE78 5011 0800 6161 6009 34);

(c) Bank transfer in pounds sterling to the United Nations Office at Geneva, account No. 23961903, J.P. Morgan Chase Bank, 25 London Wall, London EC2Y 5AJ, United Kingdom (Swift code: CHAS GB 2L; bank number: (SC) 609242; IBAN: GB68 CHAS 6092 4223 9619 03);

(d) Bank transfer in Swiss francs to the United Nations Geneva General Fund, account No. 240-C0590160.0, UBS AG, rue du Rhône 8, case postale 2600, CH-1211 Geneva 2, Switzerland (Swift code: UBSW CH ZH 80A; bank number: 240; IBAN: CH92 0024 0240 C059 0160 0);

(e) Bank transfer in other currencies to the United Nations Geneva General Fund, account No. 240-C0590160.1, UBS AG, rue du Rhône 8, case postale 2600, CH 1211 Geneva 2, Switzerland (Swift code: UBSW CH ZH 80A; bank number: 240; IBAN: CH65 0024 0240 C059 0160 1);

(f) Cheque payable to the United Nations, addressed to Trésorerie, Nations Unies, Palais des Nations, CH-1211 Geneva 10, Switzerland.

21. Donors are requested to inform the Donor and External Relations Section of OHCHR when a payment has been made (including a copy of the bank transfer order or the cheque) to facilitate effective follow-up in the official recording procedure and for the preparation of reports of the Secretary-General.

V. Conclusions and recommendations

22. **The Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is the only functional fund established by an international human**

rights treaty. It is increasingly affirming itself as a model for engagement between the United Nations, State parties, national preventive mechanisms and civil society in the prevention of torture.

23. The minimum required on an annual basis to guarantee a functioning Fund able to support an average of 20 projects per year, with a reasonable level of funding per project (e.g., $35,000), would be around $1.4 million.

24. More contributions are therefore required to sustain and consolidate the Fund as a viable tool able to play an integral role in the torture prevention system of the United Nations.

25. Governments, intergovernmental and non-governmental organizations and other private or public entities are strongly encouraged to contribute to the Special Fund, in order to provide it with the resources required to carry out its mandate.

Annex

Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: projects approved to date by the Office of the United Nations High Commissioner for Human Rights Grants Committee

Grants awarded since the establishment of the Fund in 2011

Country	*Project summary*	*Implementing entity*	*Year of project*	*Grant amount (United States dollars)*
1. Benin	Implementation of the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Subcommittee) concerning the protection of children deprived of their liberty	World Organization against Torture (non-governmental organization) in partnership with Enfants solidaires d'Afrique et du monde (local non-governmental organization)	2012	19 539.00
2. Benin	Implementation of Subcommittee recommendations concerning the protection of children deprived of their liberty in Benin	World Organization against Torture (non-governmental organization) in partnership with Enfants solidaires d'Afrique et du monde (local non-governmental organization)	2013	44 428.00
3. Benin	Informing detainees of their fundamental rights and reducing overpopulation in places of detention through improved identification of cases of arbitrary detention by State actors and civil society	International Federation of ACAT (Action by Christians for the Abolition of Torture)	2014	35 000.00
4. Brazil	Implementation of a mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment in Minas Gerais	Human development secretariat of Minas Gerais State	2013	47 712.50
5. Brazil	Implementation of Subcommittee recommendations concerning the protection of children deprived of their liberty in Brazil	World Organization against Torture (non-governmental organization) in partnership with Justiça Global (local non-governmental organization)	2014	34 802.00
6. Honduras	Training for prison staff on human rights standards and prevention of torture	Ministry of Justice and Human Rights	2012	20 000.00
7. Honduras	Technical support to the national preventive mechanism in Honduras and training for judges, prosecutors and public defenders	Regional Office for Latin America of the Association for the Prevention of Torture (non-governmental organization) in Panama	2012	14 847.00
8. Honduras	Legal reform and support to the national preventive mechanism in Honduras	Regional Office for Latin America of the Association for the Prevention of Torture (non-governmental organization) in Panama	2013	30 325.00
9. Honduras	Training on the rights and duties of persons deprived of liberty to holders of rights and obligations	National Committee for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment (national preventive mechanism)	2014	35 000.00
10. Maldives	Notification of fundamental rights to foreign detainees in their local languages	Human Rights Commission of Maldives (national preventive mechanism)	2012	13 200.00
11. Maldives	Supporting the national preventive mechanism of Maldives in effectively implementing Subcommittee recommendations	Human Rights Commission of Maldives (national preventive mechanism)	2013	15 328.60

Country	*Project summary*	*Implementing entity*	*Year of project*	*Grant amount (United States dollars)*
12. Maldives	Understanding the risk of violence to Maldivian children deprived of their liberty	Juvenile Justice Unit, Ministry of Home Affairs	2014	23 786.00
13. Maldives	Development and delivery of Istanbul Protocol training on investigation and documentation of torture and other ill-treatment	The Redress Trust (non-governmental organization)	2014	34 876.15
14. Mexico	Providing training on the use of the Istanbul Protocol	Colectivo contra la Tortura y la Impunidad (non-governmental organization)	2012	19 807.00
15. Mexico	Training on combating torture for the Mexican judiciary in partnership with the Office of the United Nations High Commissioner for Human Rights, members of the Subcommittee and key national justice institutions	International Bar Association's Human Rights Institute (non-governmental organization)	2013	46 855.00
16. Mexico	Training workshop on human rights and the prevention of torture with a gender perspective	Government of Oaxaca	2014	35 000.00
17. Paraguay	Systematization of police records	Ministry of the Interior	2012	19 984.00
18. Paraguay	Design of fair-trial indicators allowing for the monitoring of constitutional guarantees of lawful detention and the presumption of innocence	Supreme Court of Justice	2012	20 000.00
19. Paraguay	Support for the work of the national body in charge of the selection of commissioners for the future national preventive mechanism	Ministry of Justice and Labour	2012	19 500.00
20. Paraguay	Contribution to the development of public policies aimed at the prevention of torture and cruel, inhuman or degrading treatment within the purview of the judiciary	Supreme Court of Justice	2013	35 730.00
21. Paraguay	Promoting the fundamental human rights of persons deprived of liberty and citizen engagement against torture in Paraguay	Fundacion "Celestina Pérez de Almada"	2014	34 520.00
Total grants awarded				**600 240.25**

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Promotion and protection of human rights: implementation of human rights instruments

United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

Report of the Secretary-General

Summary

The present report, which is submitted in accordance with General Assembly resolution 46/122, presents the recommendations for grants to beneficiary organizations that were adopted by the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery at its eighteenth session, held in Geneva from 18 to 22 November 2013. It also provides information on other recommendations adopted by the Board.

* A/69/150.

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I. Introduction

A. Submission of the report

1. The present report was prepared in accordance with the arrangements approved by the General Assembly in its resolution 46/122, by which it established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. It presents the recommendations for grants adopted by the Board of Trustees of the Fund at its eighteenth session, held in Geneva from 18 to 22 November 2013. The United Nations High Commissioner for Human Rights approved those recommendations on behalf of the Secretary-General on 10 December 2013.

B. Mandate of the Fund

2. In line with resolution 46/122, the Fund was established with the purpose of extending humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery. The Fund receives voluntary contributions from Governments, non-governmental organizations, private or public entities and individuals.

C. Administration of the Fund and Board of Trustees

3. The Secretary-General administers the Fund through the Office of the United Nations High Commissioner for Human Rights (OHCHR), with the advice of a Board of Trustees and in accordance with the Financial Regulations and Rules of the United Nations.

4. The Board of Trustees is composed of five members with relevant experience in the field of human rights and, in particular, in issues of contemporary forms of slavery. They serve in their personal capacity and are appointed by the Secretary-General with due regard to equitable geographical distribution. In January 2014, the Secretary-General renewed the mandates of Ms. Asma Jahangir (Pakistan), Mr. George Omona (Uganda) and Mr. Michael Beresford Dottridge (United Kingdom of Great Britain and Northern Ireland) for a final three-year term ending on 31 December 2016. On 10 July 2014, the Secretary-General appointed for a first three-year term, renewable once and ending on 10 July 2017, Mr. Leonardo Sakamato (Brazil) and Ms. Nevena Vučković-Šahović (Serbia), replacing Ms. Virginia Herrera Murillo (Costa Rica) and Ms. Klara Skrivankova (Czech Republic) respectively.

II. Management of grants

A. Admissibility criteria

5. In accordance with the mandate of the Fund as set out in General Assembly resolution 46/122, the beneficiaries of assistance from the Fund are individuals whose human rights have been severely violated as a result of contemporary forms of slavery. Project admissibility criteria are outlined in the Fund's guidelines, which were revised at the eighteenth session of the Board of Trustees. Beneficiaries of projects must be victims of contemporary forms of slavery and, when applicable,

members of their families. Contemporary forms of slavery that qualify for project grants include traditional slavery, serfdom, servitude, forced labour, debt bondage, the worst forms of child labour, forced and early marriage, the sale of wives and inherited widows, trafficking in persons and human organs, sexual slavery, the sale of children, the commercial sexual exploitation of children and the use of children in armed conflict.

6. Priority in allocating grants is given to projects aimed at reparation, empowerment and integration of victims of contemporary forms of slavery through the provision of direct assistance. Assistance may include medical, psychological, social, legal, humanitarian and educational assistance, vocational or skills training or other assistance in support of an independent livelihood. Detailed information on the various types of assistance provided through the projects financed by the Fund, as well as their impact on beneficiaries, can be found online at http://www.ohchr.org/slaveryfund. New brochures and leaflets on the Fund are displayed there.

7. By 5 April 2013, the deadline for submitting applications for project grants for 2014, the Fund received 112 applications. The admissible applications were examined by the Board of Trustees at its eighteenth session, held from 18 to 22 November 2013. The deadline for submitting applications for project grants for 2015 was 1 March 2014. The admissible applications will be examined by the Board of Trustees at its nineteenth session, to be held in Geneva from 24 to 28 November 2014.

B. Monitoring and evaluation by the Board Secretariat

8. At its eighteenth session, the Board of Trustees was presented with a total number of 81 admissible project proposals for 2014. Sixty-six of these projects had been evaluated in situ prior to the session by the Funds' Secretariat of the Fund and Board members, OHCHR Country and Regional Offices and Human Rights Components of Peacekeeping Missions.

III. Financial situation of the Fund

9. Between 2009 and 2014, as a consequence of the global financial crisis annual voluntary contributions to the Fund decreased by 30 per cent, from $886,482 in 2009 to $633,018 in 2013. For 2014, as at 10 July 2014 the Fund had received $409,913; further donations are expected by the end of 2014.

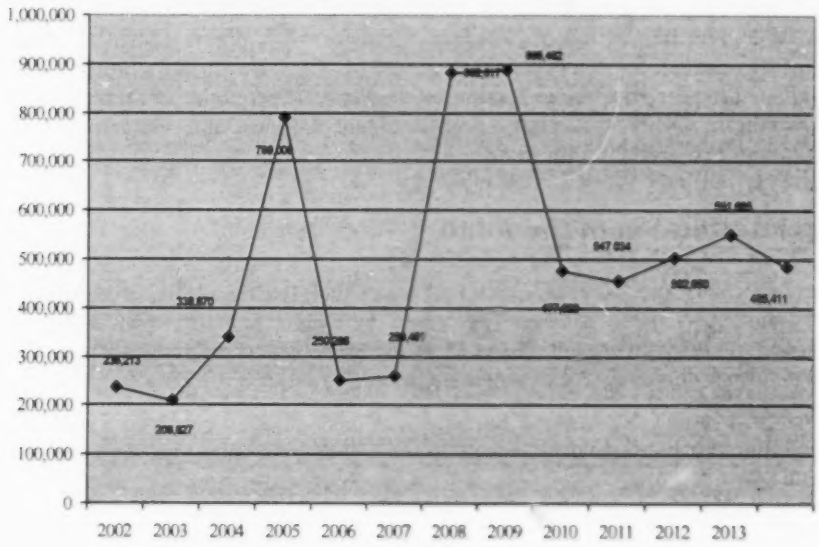
10. The table below shows the contributions and pledges received since the previous report of the Secretary-General to the General Assembly on the activities of the Fund (A/68/280).

Contributions and pledges received from 13 July 2013 to 10 July 2014

Donor	*Amount (United States dollars)*	*Date of receipt*
United Arab Emirates	30 000	5 June 2014
Turkey	6 000	30 May 2014
United Kingdom	33 057	1 April 2014
Germany	341 997	27 March 2014
Holy See	916	11 March 2014
Spain	48 275	24 January 2014
Turkey	6 000	31 December 2013
Netherlands	125 000	20 December 2013
Israel	5 000	10 December 2013
India	25 000	28 November 2013
Greece	27 137	23 October 2013
Total, as at 10 July 2014	**648 382**	

11. Figure I shows the trend in the amount of contributions received from 2002 to 2013, by year.

Figure I
Annual contributions, 2002-2013



IV. Eighteenth session of the Board of Trustees

12. The eighteenth session of the Board of Trustees of the Fund was held in Geneva from 18 to 22 November 2013. During the session, the Board held a meeting with Member States. The Board also held meetings with the Deputy United

Nations High Commissioner for Human Rights and the Chief of the External Outreach Service of OHCHR to discuss the critical financial situation and the need to enhance visibility and outreach to showcase the impact of the Fund's work. The Board reported positively on the efforts made by the Funds' secretariat to enhance the management of the Fund and foster greater coordination between the Fund and other human rights mechanisms and activities.

A. Recommendations adopted by the Board of Trustees

13. At the session, the Board of Trustees was presented with 81 admissible applications for project grants amounting to approximately $1,185,248, which had been evaluated and scored by the secretariat in preparation of the session. The Board decided to focus its review on 57 projects highly recommended for funding and further recommended 35 project grants for a total amount of $400,000. Through these grants, the Fund is expected to assist non-governmental organizations in 33 countries worldwide: 12 projects in Asia, 9 in Africa, 4 in Eastern Europe, 5 in Latin America and the Caribbean and 5 in the countries of the Western European and other States group. These projects aim to provide redress and rehabilitation services to victims whose human rights were severely violated as a consequence of contemporary forms of slavery, such as the worst forms of child labour, domestic servitude, forced and early marriage, bonded and forced labour, sexual exploitation and trafficking in persons for labour and sexual exploitation.

14. Figures II and III below illustrate the breakdown of the 35 approved grants, by region and by type of contemporary slavery.

Figure II
Grants awarded by region in 2014

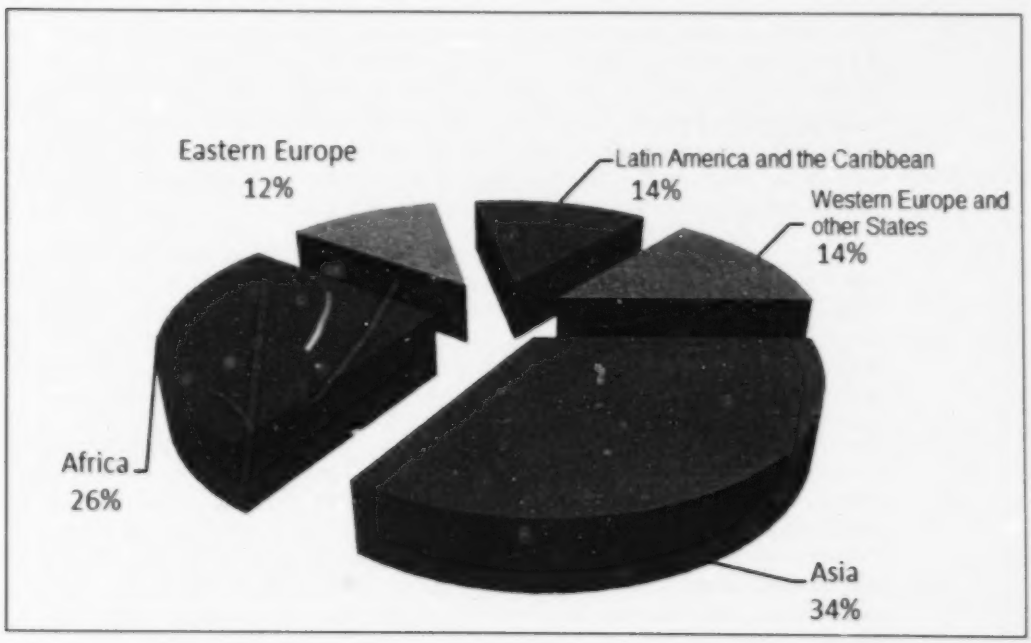
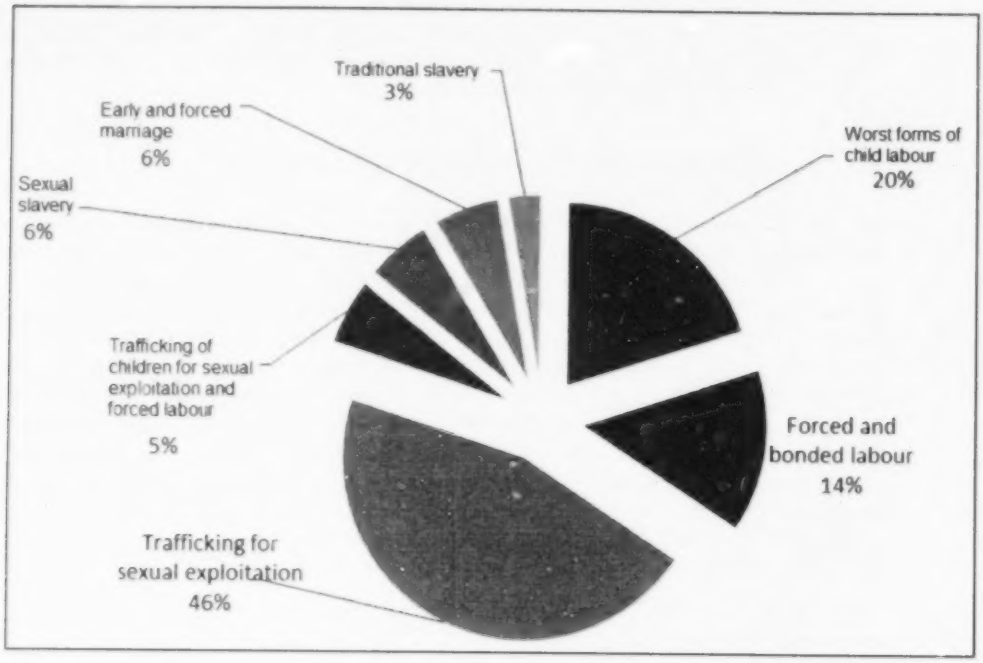


Figure III
Distribution of 2014 projects, by type of slavery



B. Policy recommendations

15. At the session, the Board of Trustees underlined the need to raise the profile of the Fund with external partners and within the work done by OHCHR on modern slavery. In order to do so, awarded projects will be increasingly identified using a solid knowledge base, building upon cooperation with OHCHR field presences and taking into account priorities identified by OHCHR for the period 2014-2017, as well as by treaty bodies and the Special Rapporteur on contemporary forms of slavery and other relevant special rapporteurs.

16. The Board of Trustees noted that the Fund has developed substantial experience in giving grants for projects addressing issues related to contemporary forms of slavery. The Fund should capitalize further on its experience to identify which forms of assistance and protection are to be considered as good practices. In particular, a methodology will be put in place to better assess the impact and results achieved in the short and long term by projects that receive grants from the Fund.

17. The visibility of the Fund should be enhanced through the regular display of disaggregated data on the grants awarded. Information on the impact of the Fund's grants, including victims' stories, will be collected regularly with the aim of producing audiovisual material that gives a human face to the issue of slavery. A brochure collecting the accounts of some of the victims assisted with the support of the Fund in recent years showcasing their resilience and the long path towards rehabilitation was launched in July 2014 on the World Day against Trafficking in Persons.

18. The Board agreed that the Fund should continue promoting a global approach through its annual calls for applications. Additionally, when its funding level allows, adequate resources should be set aside to respond to emergencies in specific regions or countries and to particular thematic trends, and an appropriate procedure should be developed to allow applications for such resources.

19. Despite the funding constraints and in order for grants to have a greater impact, the Board also recommended that the average size of its yearly grant be increased, from $11,400 (the average for grants awarded under the 2014 call for applications) to $20,000 (the maximum amount for individual grants for 2015).

20. The Fund should also continue enhancing coordination with other grant-making institutions, such as the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children and private foundations. Wherever possible, the Fund will endeavour to work in a collaborative way with other institutions, sharing information about methods and practices that have proved effective in providing humanitarian, legal and financial assistance to victims of contemporary forms of slavery.

C. Fundraising

21. At its eighteenth session, an insufficient level of funding compelled the Board of Trustees to dedicate time to formulate concrete recommendations for a targeted fundraising strategy for the Fund.

22. The Board noted that the Fund was currently working with a minimum level of required resources to fulfil its mandate. The Board reiterated that the Fund would need a minimum of $2 million in contributions on a yearly basis in order to meaningfully fulfil its mandate.

D. Cooperation with United Nations agencies and developments in the United Nations system concerning relevant mandates

23. On 20 November 2013, the Board held a conference call with the former Special Rapporteur on contemporary forms of slavery, who thanked the Board for its contribution to her final thematic report, on challenges and lessons in combating contemporary forms of slavery, which was submitted to the Human Rights Council at its twenty-fourth session (A/HRC/24/43). She also expressed gratitude for the financial support provided by the Fund to cover the costs related to the participation of grassroots civil society representatives in the framework of her country visits. She expressed the wish that similar support continue in 2014-2015; the Board agreed to grant that wish despite the current financial constraints.

E. International Day for the Abolition of Slavery

24. On 2 December 2013, the Secretary-General made the following statement to commemorate the International Day for the Abolition of Slavery:

> This year's International Day for the Abolition of Slavery comes as the international community is intensifying efforts to eradicate poverty and forge a

post-2015 development agenda. In pursuing these goals, it is vital that we give special consideration to ending modern-day slavery and servitude, which affects the poorest, most socially excluded groups — including migrants, women, discriminated ethnic groups, minorities and indigenous peoples.

There has been important progress in the last year. A number of countries have acted to combat slavery through stronger domestic legislation and greater coordination. More and more businesses are working to ensure their activities do not cause or contribute to contemporary forms of slavery in the workplace and their supply chains.

I strongly support these initiatives and urge all Member States to ratify the Supplementary Convention on the Abolition of Slavery, develop robust and effective domestic legislation and boost enforcement on the ground. The partnership of the private sector in implementing these efforts is critical.

Civil society continues to play a major role in assisting victims, often with the support of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. For more than 20 years, the Fund has helped restore human rights and dignity to tens of thousands of children, women and men. I urge continued support for this vital initiative.

As we mark the International Day for the Abolition of Slavery, let us join forces to make our world slavery-free.

V. How to contribute to the Fund

25. The Fund depends on voluntary contributions from Governments, non-governmental organizations and other private or public entities. Donors should indicate "for the Slavery Fund, account SH" on a payment order. For information on how to contribute, donors are requested to contact: Secretariat of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, Office of the United Nations High Commissioner for Human Rights, United Nations, CH 1211 Geneva 10, Switzerland; e-mail: slaveryfund@ohchr.org; telephone: 41 22 917 9376; fax: 41 22 917 9017.

VI. Conclusions and recommendations

26. **Owing to increased funding constraints, at its eighteenth session, the Board of Trustees was able to recommend only 35 grants for 2014, for a total amount of $ 400,000. The Board is concerned about the insufficient level of contributions received and reiterates that the Fund would need at least $2 million each year in order to meaningfully fulfil its mandate.**

27. **In line with the message of the Secretary-General on International Day for the Abolition of Slavery, 2 December 2013, donors and potential donors are encouraged to support the Fund so that it can provide crucial rehabilitation assistance to victims of slavery worldwide. Contributions should reach the Fund before November 2014 in order for them to be duly recorded by the United Nations Treasurer in advance of the nineteenth session of the Board.**

United Nations A/69/291

General Assembly

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Sixty-ninth session
Item 113 (a) of the provisional agenda*
Elections to fill vacancies in subsidiary organs and other elections

Election of twenty members of the Committee for Programme and Coordination

Note by the Secretary-General

1. In accordance with Economic and Social Council resolution 2008 (LX) and General Assembly decision 42/450, the members of the Committee for Programme and Coordination are nominated by the Council and elected by the Assembly.

2. The membership of the Committee in 2014 is as follows (the term of office expires on 31 December in the year indicated):[1] Argentina (2014); Belarus (2014); Benin (2016); Botswana (2015); Brazil (2014); Bulgaria (2014); Cameroon (2014); China (2016); Cuba (2014); El Salvador (2015); Ethiopia (2016); France (2015); Guinea (2014); Guinea-Bissau (2014); Haiti (2016); Iran (Islamic Republic of) (2014); Italy (2014); Japan (2016); Kazakhstan (2014); Malaysia (2014); Morocco (2016); Pakistan (2014); Peru (2015); Republic of Korea (2016); Republic of Moldova (2014); Russian Federation (2015); United Kingdom of Great Britain and Northern Ireland (2014); United Republic of Tanzania (2015); United States of America (2014); Uruguay (2014); and Zimbabwe (2014).

3. The General Assembly, at its sixty-ninth session, will be called upon to elect 20 members, on the nomination of the Economic and Social Council, to fill the vacancies in the Committee that will occur on 31 December 2014 upon the expiration of the terms of office of the following members: Argentina, Belarus, Brazil, Bulgaria, Cameroon, Cuba, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Italy, Kazakhstan, Malaysia, Pakistan, Republic of Moldova, United Kingdom, United States, Uruguay and Zimbabwe, as well as two members from Western European and other States whose seats remain vacant. The term of office is three years, beginning on 1 January 2015.

* A/69/150.

[1] There are three vacancies for Western European and other States, for two members whose term of office would begin on the date of election and expire on 31 December 2014 and for one member whose term expires on 31 December 2015.

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4. In accordance with General Assembly decision 42/450, the vacancies are to be filled as follows:

(a) Four members from African States;

(b) Four members from Asia-Pacific States;

(c) Three members from Eastern European States;

(d) Four members from Latin American and Caribbean States;

(e) Five members from Western European and other States (includes two unfilled vacancies).

5. By its decision 2014/201 A, the Economic and Social Council nominated the following 13 Member States for election by the General Assembly at its sixty-ninth session for a three-year term beginning on 1 January 2015: Armenia, Belarus, Brazil, Burkina Faso, Cameroon, Cuba, Equatorial Guinea, Iran (Islamic Republic of), Italy, Namibia, Ukraine, Uruguay and Venezuela (Bolivarian Republic of).

6. The geographical distribution of the nominated Member States is as follows:

(a) African States (four vacancies): Burkina Faso, Cameroon, Equatorial Guinea and Namibia;

(b) Asia-Pacific States (four vacancies): Iran (Islamic Republic of);[2]

(c) Eastern European States (three vacancies): Armenia, Belarus and Ukraine;

(d) Latin American and Caribbean States (four vacancies): Brazil, Cuba, Uruguay and Venezuela (Bolivarian Republic of);

(e) Western European and other States (five vacancies): Italy.[2]

[2] The Economic and Social Council postponed the nomination of three members from Asia-Pacific States and four members from Western European and other States for election by the General Assembly for a three-year term beginning on 1 January 2015 (decision 2014/201 A). The Council further postponed the nomination of three members from Western European and other States, two for terms expiring on 31 December 2014 and one for a term expiring on 31 December 2015; all terms begin on the date of election by the General Assembly.